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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PASTOR of Arizona).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 5, 2009.

I hereby appoint the Honorable ED PASTOR to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

I will sing forever of Your love, O Lord; throughout the years I will proclaim Your truth.

The starry heavens are Yours. The whole world is Yours. You established the earth and all it holds together. You created the north and the south, the boundaries of the land.

In You we find power and strength. Your justice becomes the foundation of all lawmaking. You help us keep all things in order.

We will find love and truth in Your presence, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana (Mr. FLEMING) come forward and lead the House in the Pledge of Allegiance.

Mr. FLEMING 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 requests for 1-minute speeches on each side of the aisle.

IS THIS A TIME TO PLANT OR A TIME TO REAP

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, the Book of Ecclesiastes says, To everything there is a season, and a time to every purpose under heaven, a time to plant, a time to reap.

Many years ago, people in States across America planted the seeds of single payer health care. Those seeds have sprouted and borne fruit where powerful State citizens' movements exist to create not-for-profit health care. This led to passage of an amendment to the health care bill which protected the rights of States to pursue single payer. Unfortunately, that amendment was taken out of the bill and we must try to get it into the conference report.

While the State health care movement is strong, the national single payer movement is still growing. It has resulted in the Conyers bill, H.R. 676, Medicare for All. The bill has 87 cosponsors, a significant number, but nowhere near enough to bring the bill to the floor where it would face certain defeat.

To those who want a stand-alone vote on single payer now, I want to ask this question: Is this a time to plant or a time to reap? What fruit will be borne from a tree that has received no light and no water in this Capitol?

ILLEGALS AND THE HEALTH CARE BILL

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the $1 trillion government will take care of us all health care bill will allow illegals to get benefits. Every year, 10 million illegals use fake or stolen Social Security cards to work here. The Government Accountability Office reports over a 15-year period, 9 million people even used the same Social Security number. It was 000–00–0000. How is that for policing the system?

This is the same inept, goofy program that will be used to monitor citizenship under the health care bill. No one has to even show a valid photo ID to sign up. Can't do that, it might hurt someone's feelings. There is no real enforcement to prevent illegals from receiving health care that citizens and legal immigrants must pay for; all they need is a name and fake Social Security number. Isn't that lovely.

Once again, Americans will continue to pay for illegals who disrespect the law. So now Americans and illegals will stand in line side by side together for that expensive rationed health care.

And that's just the way it is.

HEALTH CARE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, after months of fire and fury and endless rhetoric, after months of staged protests and shouting down honest debate about health reform, after months and months of promising a real plan for the reform we all agreed we need, I stand

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before this Congress literally astounded by the health reform plan offered by the loyal opposition.

After all this time, this is the best you could produce? It seems that you have backtracked. Now you don't believe in health reform. Instead, the Republicans have embraced a plan that will drive up the cost of health insurance for the sickest and most vulnerable, a plan that will start a race to the bottom where insurers drop the sick and flock to States with the weakest regulations. Yes, that's exactly what I said.

A plan that bails out the insurance companies, relieving them of any responsibility to cover the individuals that need insurance the most. You are going backwards instead of forwards.

I must admit that I congratulate them for somehow turning the status quo into 230 pages of legislative text. I contend there is only one real reform plan, and we will be voting on it in a few days.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to address their remarks to the Chair, not to others in the second person.

HEALTH CARE

(Mr. BROUN of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROUN of Georgia. Mr. Speaker, God tells us in Hosea 4:6, My people are destroyed for lack of knowledge.

Mr. Speaker, the American citizens need to know that the Pelosi health mandate bill that we are going to be voting on evidently Saturday night is going to destroy our economy. It is going to destroy jobs. In fact, the President's own economic adviser says 5.5 million people will lose their jobs if this bill becomes law.

Mr. Speaker, the American people need to read the bill and need to know what is in it. It is being forced down the throats of the American people. Mr. Speaker, this is a dead, rotten, stinking fish that the Speaker is trying to force down the throats of the American people before they have an opportunity to see it. I encourage the American people to know what is going on here and to tell their Congressman that they reject the insurance mandate that is proposed by the Speaker in the Speaker's health insurance mandate bill.

HEALTH CARE REFORM

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute.)

Ms. SCHWARTZ. Mr. Speaker, central to finding a uniquely American solution to America's health care challenges is strengthening Medicare for our Nation's seniors. Our health care reform effort renews our commitment to the health and security of American seniors by ensuring the long-term fiscal health of Medicare and improving the quality of care that seniors receive. The House bill adds valuable new benefits for seniors and improves access to primary care.

Seniors now pay up to 20 percent of the cost of preventive services like mammograms and colonoscopies and vaccines. As of January 1, 2011, seniors will no longer have to pay any copay for preventive services. This is a major win for America's seniors.

Health care reform also sets us on a path to close the coverage gap in Medicare part D, known as the doughnut hole. In 2011, Medicare will pay $50 more for seniors to get drugs, and they will receive a 50 percent discount on brand name drugs. Health care is good for our seniors. Health care is good for America. Now is the time to act.

ENROLL CONGRESS IN PUBLIC OPTION

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, in July, I offered House Resolution 615, which urged my colleagues who vote for a government-run health care plan to lead by example and enroll themselves in the same public plan. The resolution has 96 Republican cosponsors and prompted almost 2 million Americans from across the country to contact my office in support of this.

Yesterday, I and several of my colleagues offered an amendment to the Pelosi health care bill that, if passed, will automatically enroll all Members of Congress and all Senators in this public option. This amendment is a direct response to the outcry of millions of Americans who have contacted me.

Members of Congress are exempt from this government takeover of health care, and I believe that if a law is good enough for the American people, then it should be good enough for the elected officials that represent them.

Tonight I will host a Webcast at 7 p.m. Eastern Standard Time, and I urge anyone watching to join me through my Web site, fleming.house.gov, to talk more about it.

CONGRATULATING MICHELLE WILMOT

(Mr. SABLAN asked and was given permission to address the House for 1 minute.)

Mr. SABLAN. Mr. Speaker, I rise today to congratulate a Chamorro soldier, Michelle Wilmot, for receiving the 2009 Outstanding Woman Veteran Award.

Michelle was a member of Team Lioness, the first female Army team attached to Marine infantry units to conduct operations such as raids, checkpoints, and personal searches for weapons and explosives. She also served as a medic and a retention NCO during her 8-year stint.

As a member of Team Lioness, she was featured in a documentary film entitled Lioness, and in a chapter of Kirsten Holmstedt's book, The Girls Come Marching Home. Michelle holds a bachelor of science degree in political science and speaks Arabic and six other languages.

Having personal understanding of the difficulties facing soldiers returning from war, she was chosen as program director of the Northeast Veteran Training and Rehab Center in Gardner, Massachusetts. The center specializes in treating veterans who suffer from post-traumatic stress disorder.

On behalf of the people of the Northern Mariana Islands, I want to congratulate Sergeant Michelle Wilmot, winner of the Massachusetts 2009 Outstanding Woman Veteran Award.

HEALTH CARE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, across the country, the American people have been calling for months for Washington to pass responsible reform that will lower the cost of health insurance to small business owners, working families, and family farms.

Yesterday, House Republicans answered that call by putting forward commonsense legislation that will reduce the deficit, lower health insurance premiums, and ensure coverage for those with preexisting conditions. You can read all about it by going on www.healthcare.gop.gov.

As a result of the House Republican bill, the nonpartisan Congressional Budget Office now confirms, families will see their health insurance premiums reduced by up to 10 percent, and hardworking taxpayers can expect deficits to decrease by $68 billion over the next decade.

The Pelosi health care plan: more government, more spending, more deficits. The Republican plan: less government, lower deficits, and lower health insurance premiums.

That's your choice, America. Let your voice be heard.

HEALTH CARE REFORM FOR WOMEN

(Ms. HIRONO asked and was given permission to address the House for 1 minute.)

Ms. HIRONO. Mr. Speaker, few Americans have more at risk or at stake in health care reform than women. Forty States allow private health insurance companies to gender rate their premiums. As a result, a 25-year-old woman may pay between 6 percent and 45 percent more than a 25-year-old man for the same coverage.

Fifty-two percent of women reported postponing or foregoing medical care because of cost. Only 39 percent of men report having had those experiences.

Nine States allow private plans to refuse coverage for domestic violence survivors.

Eighty-eight percent of private insurance plans do not cover comprehensive maternity care. In many policies, a previous C-section and being pregnant are considered preexisting conditions.

Less than half of all women in America have employer-sponsored insurance. This is partly due to the fact that more women tend to work for small businesses or have part-time jobs where health insurance is not offered.

Women matter. Health care reform matters. I urge my colleagues' support to change this broken system.

□ 1015

UNEMPLOYMENT EXTENSION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, over 8 months ago, Congress passed and the President signed a so-called ''economic stimulus'' bill which added nearly $1 trillion to our national debt, and now we are told by this administration, as the White House Council of Economic Advisors recently said, that we can expect 10 percent unemployment through the end of next year and that the economic stimulus bill will contribute little to further economic growth. However, since then, over 3 million jobs have been lost, and the national unemployment rate has soared from 8.1 percent to a 26-year high of 9.8 percent.

State unemployment numbers from my home State of Florida in September continue to reveal the sad fact that since the stimulus passed, unemployment has now risen to 11 percent, which is a record-high level not experienced since 1975.

Today, the House of Representatives will vote on legislation to extend unemployment benefits to those individuals who are unable to find a job. I have supported extensions of these benefits in the past, and I am proud to do so again today.

REPUBLICAN HEALTH PLAN

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Unlike any other industry or business in America, the health insurance industry is exempt from antitrust laws. That means they can and they do collude to drive up your premiums, to exclude you from coverage, to rescind your policy, a whole host of abuses. We do have a little bit of State regulation, but the Republicans are going to take care of that. They're going to create a new safe haven for insurance company abuses.

Insurance companies will be able to offer national plans—that's their big thing, yes—but they can choose any State in the 50 in which to base that plan. And no matter where you live and no matter what the laws are of your State, if you've got a problem—if they've denied you coverage, if they revoked your policy because you got sick, all the other abuses that go on every day within the insurance industry—if you live in Oregon, you'll have to be talking to the insurance commissioner in Delaware or Mississippi with your complaint. And guess what? They don't have consumer protections there for health insurance. The States will provide and compete, some States, the lowest common denominator, the least regulation to attract this great new business of abusive health insurers.

That's the Republican plan. They're always delivering for their buddies in the health insurance industry while the payments roll in at campaign time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are limited to 1 minute and should heed the gavel.

PELOSI HEALTH CARE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, when I talk with constituents in my district, it's clear that more and more of the American people do not support the Pelosi plan for a government takeover of health care. Sadly, that will not stop liberal Democrats from pushing forward with the Pelosi plan anyway.

Buried in the 1,990-page bill are more than $700 billion in new taxes on small businesses and individuals and employers who can't afford health care. The Pelosi health care plan also includes more than 100 new bureaucracies, boards, commissions, and programs. What it does not include is coverage for 29 million of the 30 million people that Pelosi and President Obama say need health insurance. They will still not be covered by this huge tax increase and increased bureaucracy.

We need to reject the Pelosi health plan—it is a tax increase masquerading as a health plan—and take up the Republican alternative, which covers everyone.

HEALTH CARE BILL

(Mr. WELCH asked and was given permission to address the House for 1 minute.)

Mr. WELCH. Mr. Speaker, America knows that we live with a health care contradiction: some of the best hospitals and doctors in the world providing health care to those who have access to the best health care in the world, but a health care system that also shuts the door of access to 47 million Americans with exploding costs, putting a punishing financial burden on our middle class and on our businesses that are hanging on to their health care by their fingernails.

This system has worked very well for the insurance companies—unregulated, unsupervised, and unapologetic—but they have plundered the wallets of families and the profits of businesses to record record profits. That, Mr. Speaker, is the status quo.

On Saturday, this House of Representatives will face a question that has eluded it for 60 years: Will we accept the status quo or turn the page and provide health care to all Americans?

Our health care legislation is going to do what needs to be done to take that first step, extend access to 36 million Americans, insurance reforms, and a public option.

WHAT'S IN THE HEALTH CARE PACKAGE?

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, if you want to know what's in a package, you ought to open it up and take a look at it.

Let me just talk about one thing that's in this package we're going to vote on on Saturday. It's in the area of tort reform, litigation reform, a subject that every single audience I've spoken to in my district has said should be in any bill, because right now the litigation system puts tremendous strain on our health care system, adding additional trillions of dollars.

What does this program do? It says that it's going to provide an opportunity for pilot projects. But if your State has on its books a law which says there will be any limitation on attorneys' fees or any limitation on damages, including noneconomic damages, you are ineligible to participate. So my State of California, which had medical malpractice reform 30 years ago, will be ineligible, will be punished.

We're not talking about the status quo on litigation reform; we're talking about going back 30 years. If that's in this package, what else is in this package?

HEALTH REFORM FOR SMALL BUSINESSES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of national health reform to help relieve the economic burden of rising health costs on small businesses.

Nationwide, 25 percent of the uninsured, 11 million people, are employees

of firms with less than 25 workers. Because they lack bargaining leverage, some small businesses pay 18 percent more than larger businesses with the same health insurance.

If H.R. 3962, the Affordable Health Care Act for America, is enacted, small businesses will be able to find affordable health insurance coverage in the health insurance exchange.

Under the legislation, businesses with up to 100 employees will be able to join the health insurance exchange, benefiting from group rates and a greater choice of insurers. There are 16,600 small businesses in the district I represent that will be able to join that health insurance exchange.

H.R. 3962 will allow small businesses with 25 employees or less and average wages of less than $40,000 to qualify for tax credits up to 50 percent of the cost of providing health insurance. There are 14,600 small businesses in our Texas district that will qualify for these credits. That's why it's important we pass health care.

HEALTH CARE REFORM

(Mr. GERLACH asked and was given permission to address the House for 1 minute.)

Mr. GERLACH. Mr. Speaker, I rise today in opposition to the Democrats' most recent health care reform proposal. Frankly, it's a bad bill that keeps getting worse and worse. Not only will it cost over $1.2 trillion over 10 years, it continues the typical Democrat model of huge tax increases on individuals and small business owners, and it will devastate our seniors' Medicare Advantage program.

Under the latest bill, it will now begin taxing our medical device manufacturers, of which there are 600 such companies in Pennsylvania employing nearly 20,000 people. That tax will do nothing but cut jobs, increase prices, and stifle new product innovation for an industry who wants to grow and prosper in the face of increasing European competition.

If this bill is the best reform this body can produce, it is a sad commentary, indeed, on the Democrats' professed willingness to achieve a commonsense, bipartisan solution to this most pressing issue.

HEALTH INSURANCE COMPANY PROTECTION ACT

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Well, it's finally here. The long-promised Republican health care bill was rolled out Tuesday night. Republicans controlled Congress from 1994 to 2006, so you could say that we've actually waited 15 years for their bill. But after 15 years of waiting, the Republican bill maintains the status quo and allows insurance companies to continue engaging in unfair practices that boost their profits at the expense of the American consumer.

Indeed, the Republican plan amounts to a ''health insurance company protection act'' and shows once and for all that Republicans don't want real reform and will fight to protect the status quo every step of the way. At least it's consistent with their message of ''no.'' Does it cover 96 percent of the American public? No. Does it end denials because of a preexisting condition? No. Does it emphasize wellness and prevention? No. Does it rein in health care costs? No.

The Republican health insurance company protection act, it says ''no'' to Americans and ''yes'' to insurance company CEOs.

IT'S TIME FOR ALL PEOPLE TO HAVE ACCESS TO INSURANCE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the time has come—it is long past time—that we should pass health care reform.

I know there is a lot of influence that is passing out a lot of information that is not true. We are not cutting Medicare. We are rearranging it so that it can cover more people, but there is no cut in services.

It's so easy to say things that are not true, to have scare tactics. Actually, all we have to do is try to understand the bill and tell the truth.

The people of this Nation want this change. It is time for the change. It is time for all people to have access to insurance. All the people—47 million, or whatever—that are not insured now could very well be insured if the insurance companies would insure them and allow them to use the insurance. That is not happening.

We have to think of another way. And the insurance companies can still live, but hopefully with some competition.

PROVIDING FOR CONSIDERATION OF H.R. 2868, CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 885 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 885

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed 90 minutes equally divided among and controlled by the chair and ranking minority member of the Committee on Homeland Security, the chair and ranking minority member of the Committee on Energy and Commerce, and the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Homeland Security or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

SEC. 3. It shall be in order at any time through the legislative day of November 7, 2009, for the Speaker to entertain motions that the House suspend the rules. The Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

□ 1030

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. HASTINGS of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. HASTINGS of Florida. I ask unanimous consent that all Members be given 5 legislative days in which to

revise and extend their remarks on House Resolution 885.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. I yield myself such time as I may consume.

Mr. Speaker, H. Res. 885 provides for consideration of H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009, under a structured rule. The rule provides 90 minutes of general debate equally divided between the Committees on Homeland Security, Energy and Commerce, and Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. It further provides that in lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce, the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as an original bill for the purpose of amendment.

The rule waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI.

The rule makes in order 10 amendments listed in the Rules Committee report, each debatable for 10 minutes. All points of order against the amendments printed in part B of the report are waived except for clauses 9 and 10 of rule XXI. It further provides one motion to recommit with or without instructions.

Finally, the rule allows the Speaker to entertain motions to suspend the rules through the legislative day of November 7, 2009. The Speaker or her designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.

Mr. Speaker, now I will proceed to the underlying legislation.

I wish to thank Chairman BENNIE THOMPSON, Chairman HENRY WAXMAN, Chairman JIM OBERSTAR, and other members of the House Energy and Commerce Committee who contributed to this legislation meaningfully and to the resulting amendment in the nature of a substitute.

H.R. 2868 amends the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities and for other purposes.

This bill helps ensure that the chemical manufacturing and storage industry, which generates $550 billion in revenue each year, is safe and secure and less susceptible to a terrorist-inspired attack. Importantly, it offers additional protections for the people and families who live near these facilities.

The concentration of lethal chemicals near large population centers makes these facilities attractive terrorist targets. The bill protects workers and neighbors of chemical facilities by asking the highest risk facilities to switch to safer chemicals and processes when it is economically feasible.

By establishing a single agency responsible for security at drinking water and wastewater facilities, the bill promotes consistent implementation of security across the industry. This legislation also helps to ensure added security for this industry. This legislation has been endorsed by the National Association of Clean Water Agencies and by the American Public Works Association.

Also, it is critical to ensure that Chemical Facility Anti-Terrorism Standards—CFATS is the acronym—is a floor and not a ceiling for safety measures, allowing States and localities to implement more stringent chemical security standards for chemical facilities, community water systems, port facilities, and wastewater treatment facilities. The bill promotes innovation and best practices to ensure that our citizens are protected and secure.

Mr. Speaker, it is worth noting that my friends across the aisle may argue that the implementation of inherently safer technology, IST, standards will hurt small businesses and will cause job loss. However, IST is already recognized as a ''best practice,'' and is widely accepted within the chemical sector. Only facilities that are judged most at-risk may be required to implement IST due to the danger posed by the release of large quantities of toxic substances at the facility.

Before IST is even implemented, it would have to be shown in writing that incorporating IST would significantly reduce the risk of death, injury or serious adverse effects to human health and that implementation is, number one, technically feasible; number two, cost-effective; and, number three, that it lowers the risk at that facility while also not shifting it to other facilities or elsewhere in the supply chain.

Mr. Speaker, I would be remiss to not again thank Chairman BENNIE THOMPSON for his support of an amendment that I will offer later to the underlying legislation.

My amendment strengthens the newly created Office of Chemical and Facility Security by designating a specific point of contact for interagency coordination with the EPA.

My amendment also requires the Secretary to proactively inform State emergency response commissions and local emergency planning committees about activities related to the implementation of the act so that they may update their emergency planning and training procedures.

I look forward to offering this amendment to the underlying legislation so that we can ensure that this legislation informs and better interfaces with activities currently underway based on the Emergency Planning and Community Right-to-Know Act of 1986.

I urge my colleagues to support the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I yield myself such time as I may consume.

I want to thank my good friend, the gentleman from Florida (Mr. HASTINGS), for the time.

In 2006, Mr. Speaker, as part of the Homeland Security Appropriations Act of 2007, Congress gave the Department of Homeland Security the authority to promulgate risk-based security performance standards for chemical facilities that use or store chemicals.

I am glad that Mr. LUNGREN of California is here, because he was intimately involved with the legislation that ultimately became law.

The DHS subsequently issued the Chemical Facility Anti-Terrorism Standards (CFATS), requiring chemical facilities to report the types and amounts of chemicals housed on sites. The legislative authority for CFATS was scheduled to sunset this year in October. The underlying bill, the Chemical Facility Anti-Terrorism Act of 2009, makes permanent the authority of the Secretary of Homeland Security to regulate security at chemical plants.

I believe it's important to address the sunsetting of the existing CFATS program at the Department of Homeland Security. However, I have concerns that this bill fails to enhance our security and, at a time when we are facing 10 percent unemployment, perhaps even higher unemployment in the future, that it could endanger economic recovery.

Of particular concern is the IST, the inherently safer technology, provisions included in this legislation. IST allows the Federal Government to mandate the use of certain chemicals and technologies regardless of the efficiency and effectiveness of the IST. This was all the more worrisome when a witness from the Department of Homeland Security testified that the Department employs no specialists with IST expertise and that there is no future funding planned.

Now, I first learned how IST may hurt job creation and how, in fact, it may increase unemployment from a small business in my district, Allied Universal Corporation, that operates a chemical manufacturing facility.

I was informed that the IST is an attempt by the Federal Government to impose a one-size-fits-all approach to a complicated and disparate sector of our economy. It will cost Allied alone, this corporation that employs people in my community, hundreds of thousands of dollars in consulting fees and in staff time alone.

It is not a good use of resources. It has no tangible benefit as manufacturing struggles to survive in this economy. Furthermore, the underlying bill reduces existing protections on information regarding chemical facilities, and it reduces the penalties for the disclosure of security information.

These regulations that we are talking about today were thoughtfully included following the terrorist attacks on September 11, 2001. The primary responsibility, Mr. Speaker, of our government is to protect the citizenry. By making chemical facilities less secure, we endanger the security of our neighborhoods and of our communities. By easing penalties for unlawfully disclosing sensitive information, we increase our vulnerability. To make matters worse, the majority includes these provisions in a bill that is supposed to help prevent attacks.

As I said before, I am glad Mr. LUNGREN is here. He can explain the process by which the current regulations came into being, the amount of discussion, negotiation, and consensus that led to those regulations coming into effect, and really how unfortunate now this attempt at an imposition of further or different regulations is.

□ 1045

Mr. Speaker, later this week the Congress is expected to consider health care bills. I would like to take this moment to compare today's rule on the chemical facility bill with the rule expected on the health care bills.

Today's rule allows 10 amendments, five from the majority and five from the minority, on a bill that costs approximately $900 million. Although the rule is not open, it's important to admit that the rule allows some debate on the underlying issues. The rule expected later this week on the health care legislation will probably include an amendment written by the Speaker. Perhaps that's the only amendment that will be allowed. We'll see. And that bill spends about $1.3 trillion, I believe.

It seems that the more money Congress spends, the more likely we seem to have a closed debate process. And that, I believe, is contrary to the way the majority promised to run this House.

On the opening day of the 110th Congress, the distinguished chairwoman of the Rules Committee came to the floor and said that the new majority would ''begin to return this Chamber to its rightful place as the home of democracy and deliberation in our great Nation.'' That pledge was echoed in a document written by the distinguished Speaker called a New Direction for America, where she stated, and, by the way, the statement is still on her Web site: ''Bills should generally come to the floor under a procedure that allows open, full, and fair debate.''

After contrasting today's rule with the expected health care rule in a few days, today's rule might look fair, but really it's not. It blocks amendments from both sides of the aisle from receiving a full and fair debate on the House floor that was, as I pointed out, promised by the Speaker.

During the hearing in the Rules Committee, the ranking member, Mr. DREIER, made a motion to allow an open rule on this legislation that's being brought to the floor; in other words, a rule that would allow all Members the ability to offer any amendment for a vote by the full House. If the Rules Committee had approved the motion, it would have been their first open rule this Congress. Unfortunately, the motion was voted down by a majority on the Rules Committee. The majority used to criticize us when we were in the majority for not allowing more open rules. They have offered none.

This rule that is bringing the underlying legislation to the floor today also gives the majority the authority to allow consideration of bills under suspension of the rules until Saturday. Suspension bills, as you know, Mr. Speaker, are usually noncontroversial bills, but the suspension authority has in the past been used to pass bills with obviously minimal debate and sometimes as a way to block the minority from offering amendments or a motion to recommit.

Now, in the past, a senior member of the majority on the Rules Committee referred to that process as ''outside the normal parameters of the way the House should conduct its business. It effectively curtails our responsibilities and rights as serious legislators.''

It's interesting how it's wrong when they're in the minority, but once they're in the majority, it's right.

ALLIED UNIVERSAL CORPORATION,
Miami, FL, October 23, 2009.

Re H.R. 2868.

Hon. LINCOLN DIAZ-BALART,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DIAZ-BALART: My company is a small business as defined by the U.S. Small Business Administration. It operates a chemical manufacturing and distribution facility in your district (8350 NW 93 Street, Miami, FL). employing individuals and providing materials to a number of industries critical to our nation's and state's economy and public health. I am writing to express my opposition to H.R. 2868, the Chemical Facility Anti-Terrorism Act, which will be scheduled for a House floor vote within days. This legislation will make significant changes to the Chemical Facility Anti-Terrorism Standards (CFATS), which took effect just two and a half years ago.

Security is a major priority for Allied Universal Corp. We are members of the Chlorine Institute and National Association of Chemical Distributors (NACD). which requires our participation in the Responsible Distribution Process, an environmental, health. safety. and security management program. My company has spent substantial resources on security upgrades in recent years. and will continue to do so going forward under the current CFATS regulations. I do not embellish when I state that a significant amount of our company's capital budget and personnel time has been spent on security improvement projects. and will continue to be spent as Allied works to address the Department of Homeland Security's identified security risks for our facility.

I am concerned that H.R. 2868 is too prescriptive and includes requirements that are not appropriate for all facilities. Security is very important, but a command and control type regulation would not benefit the nation let alone the thousands of businesses that must comply with the regulation. For example, the requirement to conduct an assessment of inherently safer technologies (1ST). or Methods to Reduce the Consequences of a Terrorist Attack, could easily cost my company hundreds of thousands of dollars in consulting fees and staff time. This is not a good use of resources for a chemical manufacturing and distribution facility like mine, which stocks products based on our customers' needs and operates on extremely tight margins. I am also concerned about other mandates in the bill and the fact that state and local measures are not preempted, which is critical for a national security program. No federal preemption would cause much confusion, not to mention additional staff time and resources that could otherwise be allocated to other pressing needs (i.e. one state may have stricter regulations, causing my company to allocate more resources to the facility in that state rather than say a facility in a state with less restrictions. but more significant security concerns or risks such as a high population area).

Therefore, I urge you to oppose H.R 2868 unless the following changes are made:

(1) All 1ST assessment and implementation mandates must be removed.

(2) Specific requirements regarding drills, employee and union involvement in SVA and SSP development, and other areas must be removed. A Risk Based Performance Standards approach should be continued as in the current CFATS regulations.

(3) The federal standards must preempt state and local requirements.

Thank you for your consideration. Please feel free to contact me if you have questions or would like more details on how H.R. 2868 would impact my company.

Sincerely,

ROBERT NAMOFF,
Chairman of the Board.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, before yielding to the distinguished Chair, I would like to remind my good friend on the other side of the aisle that what we're debating here is the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009. This bill is about renewing the Homeland Security Department's authority to implement, enforce, and improve the chemical facility anti-terrorism standards and to require that the EPA establish parallel security programs for drinking water and wastewater facilities. It's important that we pass this legislation.

I find it striking that my friend and colleague would reference the fact that a distinguished legislator, a friend of mine, who was doubtless here when this legislation originated, and I'm sure has insight as to its origination—but as I have lived here in this institution for nearly 20 years, I've found an evolutionary process to just about all legislation. And there was a major intervention between the implementation of this legislation initially and today, and that intervention was 9/11. And the things that have flowed from it allowed that we have more than 6,000 facilities in this country that are vulnerable and we have an absolute responsibility to deal with them. We also have an absolute responsibility to pass health care.

With that, Mr. Speaker, I'm pleased to yield 3 minutes to my good friend,

the gentleman from Mississippi (Mr. THOMPSON), distinguished chairman of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. I appreciate the gentleman's providing the time.

Mr. Speaker, I rise today in support of the rule for H.R. 2868. I want to first express my gratitude to Chairwoman SLAUGHTER and the Rules Committee for this rule that allows five Democratic and five Republican amendments.

In the wake of the September 11 attacks, security experts immediately identified the threat of an attack on a chemical facility as one of the greatest security vulnerabilities facing the Nation. In 2006, Congress gave the Department of Homeland Security authority to regulate security within the chemical sector. DHS established the Chemical Facility Anti-Terrorism Standards program in 2007, and since that time, DHS has, by all accounts, worked in a collaborative manner with industry to implement this risk-based, performance-based program.

Earlier this year, I introduced H.R. 2868 to not only reauthorize this important program, which will sunset in October 2010, but to also improve it in a few key areas. At the start of this Congress, Chairman WAXMAN and I reached an agreement on issues that have dogged this effort. In Chairman WAXMAN I found a partner who was equally committed to making progress on this important homeland security issue. Starting last fall we began bipartisan discussions in earnest and engaged a wide array of stakeholders including DHS, EPA, chemical sector representatives, water groups, environmental groups, and labor groups. What emerged was the package you see before you today.

Title I is a reauthorization of the DHS program. Titles II and III provide new regulatory authority to the EPA to regulate drinking water and wastewater utilities respectively. This package eliminates the exemptions for the water sector that both the Bush and Obama administrations identified as security gaps and makes a number of improvements to the DHS program.

The underlying legislation, which I introduced in June, built upon two hearings and two markups that were held in the last Congress. H.R. 2868 was marked up by the Homeland Security Committee over the course of 3 days in late June. The Committee on Energy and Commerce held a legislative hearing on H.R. 2868 and drinking water security legislation this October. Both bills were marked up in subcommittee and full committee in October, also.

Whether it was the staff negotiations or during markups, numerous Republican requests and concerns were included in the final product.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield to the gentleman an additional 2 minutes.

Mr. THOMPSON of Mississippi. Thank you very much.

The detailed collaborative approach used to create the underlying legislation is a process for which we should all be proud.

As a Congressperson who represents one of the more agricultural districts, I also said that this bill does not harm agricultural interests. I have never voted against an agricultural interest. And I look forward to working with that interest on any concerns they might have.

Mr. Speaker, I support the rule for H.R. 2868, and I look forward to today's debate and passage of this important legislation that will help to make America more secure.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, as Dr. King said in my favorite of his speeches, longevity has its place. And in Congress we have some Members who have been here for many years. I would like to yield to one such distinguished Member who was here for many years, then left us but then returned, which is even more unusual. But he has the historical knowledge with regard to this legislation, which, by the way, was in this decade that he worked on and that led to the regulations that the majority seeks to amend drastically, change drastically today.

I yield 5 minutes to my distinguished friend from California, Mr. DANIEL E. LUNGREN.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman very much. I must add, though, I was a very, very young man when I first came here. I appreciate that.

First of all, I rise in opposition to this rule. I will talk about the underlying bill and the rule as it applies there, but we should also recognize this rule goes beyond the underlying bill and establishes what has been affectionately referred to as martial law, which means that the majority, basically without notice, can bring up at any time through Saturday, November 7, under suspension of the rules any measure. Any measure. There's no limit on what measure it might be. And for Members who may have forgotten what that means, a suspension of the rule means we suspend all rules and can consider virtually anything we want here, and a bill can be brought up from a committee and the entire text of the bill as passed out of the committee can be removed and we can have a different bill here on the floor. So Members should be aware that we are with this rule passing martial law, giving the majority the ability to bring up anything.

Frankly, that language that has never been seen by any committee can be entered into a bill with just the name and it could be presented on this floor. So Members should be aware that this rule goes beyond the underlying bill.

With respect to the underlying bill, why would I have concerns about this bill when I serve, with true joy, on this committee and serve with the chairman of the full committee who presents this bill before us? It is because we've been working on this area of concern for the last 5 years and we did come up with legislation that was incorporated into the appropriations bill dealing with homeland security back in 2006, and that language is the language which has been brought forward in the regulations and under which the Department of Homeland Security has operated over these last number of years. And it is the reason why this administration has asked for a simple 1-year extension, not the changes that we have in this bill. Why is that of concern?

□ 1100

Why is it that organizations that have worked carefully with the Department of Homeland Security to come up with a regime that is workable so that we can protect against potential terrorist attacks in the area of chemicals, why would these organizations now have some question?

Why would, for instance, as recently as several days ago, the American Farm Bureau Federation, the American Petroleum Institute, the American Trucking Association, the Fertilizer Institute, the National Association of Chemical Distributors, the National Association of Manufacturers, the National Petrochemical and Refiners Association, and the U.S. Chamber of Commerce all oppose this bill?

It is primarily because while the administration, both the prior administration and the current administration, have worked well with all of these industries to come up with a regime that is workable, that does protect us, that does make a distinction between the larger companies and the smallest companies, that has engaged them in such a way that they have put forward new practices and capital investment, that all of that could be thrown out of the window now as we adopt new regulations under a new regulatory scheme.

What is the major concern they have? It has to do with something called inherently safer technology. It sounds great. Who could be against it? The problem is this legislation misunderstands what that is. We've been working on this for the last half decade.

In 2006, I remember Scott Berger, director of the Center for Chemical Process Safety of the American Institute of Chemicals, testified before us on this. His organization is the organization which has produced the accepted reference book on the issue of inherently safer processes. That is what we are talking about here. Here is what he said:

Inherently safer design is a concept related to the design and operation of chemical plants, and the philosophy is generally applicable to any technology. But he goes on to say that this is an evolving concept, and the specific tools and techniques for application are in the early stages of development and such methods do not now exist.

What basically we got out of his testimony and the testimony of every witness that appeared before us, both brought by the Democratic Party and Republican Party——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 2 minutes.

Mr. DANIEL E. LUNGREN of California. Is that this is a process, not a product; yet we are now giving blanket authority for the Secretary to impose inherently safer technologies as if it were a product.

Now, this is going to impact companies disproportionately which are small. Mr. Speaker, 59 percent of the companies that will be impacted by this law employ 50 workers or less. In my home State of California, it's 62 percent. So at a time when we are having difficulty maintaining and producing jobs, when everybody comes to the floor and says, We want to protect small business, we want to help small business, small businesses are going to be hurt disproportionately by this legislation. This legislation is at least premature.

The administration has said, Just give us a simple reauthorization for a year of what you're already doing. We did that in the appropriations bill, but somehow, because we seem to have more time on our hands, we have to bring bills to the floor as we wait for the health care reform, the mother of all bills, to come to this floor. That's why we're here dealing with this, despite the fact the administration doesn't support it, the industry doesn't support it, small business doesn't support it, and even those who came up with the idea of inherently safer technologies have told us in testimony, You folks don't understand; you're misapplying it if you are going to put it in the bill as it is in this bill.

It sounds great. Everybody is for inherently safer technologies, but it's the substance of what it is that we ought to be concerned about, and we ought not put another job-killer bill on this floor just a day or 2 days before we're going to hear the latest unemployment statistics.

Mr. HASTINGS of Florida. Mr. Speaker, inherently safer technologies, known as methods to reduce the consequences of a terrorist attack, includes techniques such as eliminating or reducing the amount of toxic chemicals stored on-site or using safer processes that facilitate as a best practice often integrated into the operations.

My good friend from California doth protest too much about us legislating on something that is particularly critical that we have this IST technology, and his argument, as I heard a portion of it, is we are doing this for the reason that we are waiting for health care and we don't have anything else to do. Well, that's just not true. We've been a pretty busy Congress from the inception of this Congress. If there was no health care provision, we would have matters that we would have to undertake, including this particularly critical matter.

Only a small subset of the people that he is talking about, covered chemical facilities, are placed in the top two riskiest tiers by the Department of Homeland Security because of the consequences in the event of a chemical release, and it could be required to implement IST. Between 100 and 200 chemical facilities nationwide currently fall into that category, according to DHS.

I am continually surprised at my colleagues' arguments. A while back, we were describing them as the party of ''no,'' and I think that that had currency and still does after you look at their health care provision, which insures nobody. But the thing that really I find interesting about this is that they really are the party of ''status quo.'' And if you look at this legislation that Congressman THOMPSON, Congressman OBERSTAR, and Congressman WAXMAN have fashioned, had hearings that were in the public, everybody had an opportunity to make their presentation, including what you just heard from our colleague, someone that had a different view as occurs in just about every hearing—the minority has an opportunity most times to bring witnesses and the majority brings witnesses, and generally, they don't agree. But that doesn't mean in this body that we don't have an exacting responsibility to go forward with legislation demonstrably to improve the American public's safety. That is what we are here about at this time.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 5 minutes to my friend from Pennsylvania, Mr. DENT.

Mr. DENT. Mr. Speaker, you are going to hear a lot of talk here today about chemical plant security, but let's be very clear. All of us, I think, in this Chamber understand the need for greater chemical plant security. As Mr. LUNGREN so eloquently stated, we have regulations in place, the so-called CFATS regulations, that are being implemented, and we should give them time to be implemented. I will get into that in more specificity in a few moments. But I do rise to oppose the rule here today.

Mr. AUSTRIA of Ohio offered an amendment that was rejected by the Rules Committee that would have exempted small businesses from the inherently safer technologies provisions contained in the legislation that we are discussing today. I would like to get into that IST in just a moment.

Again, we all support the need for greater chemical plant security. We should also note, too, that by adding drinking water and wastewater facilities, we will double the number of facilities that will need to be reviewed under the existing regulatory scheme. Actually, 4,000 of the 6,000 security vulnerability assessments have not yet been reviewed by the Department of Homeland Security, currently. Adding IST will complicate this thing to a much greater extent.

People who know a great deal about IST—''inherently safer technologies'' is the term—have opposed mandating it into this law. Congress is acting as chief engineer. We ought not to be doing that. But this legislation is not simply about chemical facilities. It is about facilities with chemicals. And what kind of facilities have chemicals? Well, what about hospitals, colleges, and universities? We have 3,630 facilities that employ 50 or fewer people who are going to be impacted by this. The point being is hospitals and colleges and universities are going to be subject to these inherently safer technology provisions contained in the legislation.

Now, specifically with respect to IST, Mr. LUNGREN just referred to the gentleman Scott Berger who came before our committee previously and vehemently argued against mandating inherently safer technologies in this legislation. But I do want to focus my comments on section 2111 of the chemical security title, addressing the concept of IST that was shoehorned into this security-focused bill.

There are similar provisions in the drinking water and wastewater titles, but this bill attempts to define IST, which is a catchy phrase. But I want to say that the concept of IST is not a new one. It's been around for decades as part of the environmental movement. As the Committee on Homeland Security prepared to tackle this bill back in June, I met with a number of scientists and subject matter experts. They consider it a conceptual framework, as Mr. LUNGREN said, that involves four basic elements: first, minimizing the use of hazardous substance; two, replacing a substance with a less hazardous one; three, using a less hazardous process; and four, simplifying the design of a process.

This is not a technology. It is a concept. It is a framework. It's an engineering process that may or may not lead to a technology. The engineers are very concerned about us mandating this, and here we are, Congress, filled with a lot of lawyers. I'm not a lawyer, but a lot of lawyers are telling them how to build a chemical plant. I represent a district where I have about 4,000 people who make a living building chemical plants, not just in this country but all over the world. They understand this. I'll give you an example.

They built hydrogen plants down by refineries on the gulf coast because you need the hydrogen to help purify or clean the air as it relates to sulfur emissions. It's a requirement. So you build a hydrogen plant down by the refinery. Substituting hydrogen for something else won't work. These plants were placed where they were for a specific reason, and the chemicals they are producing there are being produced for a specific reason. Let not

Congress act like chief engineer for the government. We are about to ask the Department of Homeland Security to institute a means by which to police our chemical facilities on their implementation of a conceptual framework. Think about the implication of this for a second.

DHS will be required, under threat of lawsuit by any person, any person that the citizen suit provisions, to fine companies $25,000 a day for noncompliance with a bureaucrat's idea of whether a particular facility has sufficiently implemented a concept. Think about that. During the committee's only hearing on this legislation in June, I inquired with Deputy Under Secretary Reitinger about how many IST specialists they currently have at the department. His answer was, ''I think the answer is none.'' Similarly, when I asked Secretary Napolitano about the number of IST experts currently employed at the Department during our budget hearing earlier this year, she, too, indicated zero.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I recognize the gentleman for an additional 1 minute.

Mr. DENT. I would also be remiss if I didn't mention the response of Sue Armstrong, director of the office responsible for implementing these requirements, when questioned on this topic. When I asked exactly what IST was, she demurred, stating, ''There is enough debate in industry and academia that I can't take a position on that very topic.'' Yet this bill not only asks her to do so but requires her, under threat of lawsuit, and saddles hundreds of facilities with the costs of the decision.

So, in closing, I just wanted to make this point once and for all that, you know, with unemployment rates approaching 10 percent, this legislation will imperil many jobs of people who make things, who make chemicals. I think perhaps the intent of some people proposing this legislation is simply that they would rather not have these chemicals be made in this country, that they be made elsewhere. This legislation will have the effect of making it more difficult to produce chemicals that we need in this country. They will be produced elsewhere.

I urge the rejection of this rule. We all support greater chemical plant security, but this is not the way to do it, and this will certainly cost jobs throughout America at this time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the distinguished chairman of this committee to correct a few of the inaccuracies that my distinguished colleague, Mr. DENT, offered. One that I heard, the Department of Homeland Security has a responsibility of regulating the matter under our consideration and not the Environmental Protection Agency.

I yield to Mr. THOMPSON such time as he may consume.

Mr. THOMPSON of Mississippi. Thank you very much. I appreciate the gentleman yielding the time.

Mr. DENT, as you know, is a member of the committee. I thank the Rules Committee for being so generous in allowing Mr. DENT to have two of the amendments that we'll consider later in the debate.

First of all, Mr. Speaker, I want to say that the administration supports this bill. It is absolutely clear that they do. The other issue is the reference to jobs. Well, we've been doing security at chemical plants since 2007. There is no data that says that that security risk has created a loss in jobs.

□ 1115

All we are doing is codifying what the Department is already doing. To say that it's anti-jobs is just totally inaccurate.

The other issue is, my colleague, Mr. DENT, as you know, this is our second time having this bill brought before us. Mr. DENT supported the bill the first time. Now he is against it. I guess you could say he was for it before he was against it. But, clearly, what I am supporting is the fact that the Department looked at several thousand facilities.

Mr. DENT. Will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. DENT. Thank you, Mr. Chairman.

I just wanted to point out that the legislation we are considering today is very different from the legislation that the committee considered a couple years ago. There are civil lawsuit provisions, civil suit provisions in here that are very, very different in this legislation than the bill we considered a couple of years ago.

The IST provisions have not been changed, but there are other differences in the legislation as well. This is not comparing apples to apples. These are very different bills, and there are a lot of reasons to oppose this bill. I just wanted to correct the record about my position on this bill and the previous bill.

Mr. THOMPSON of Mississippi. Since the gentleman raised the question, the civil lawsuit provision has changed in this bill. I would suggest, Mr. DENT, if you look at it, a plant cannot get sued under this particular legislation. A citizen can't bring lawsuit against a plant. We did change it. We heard you. So we have changed it. That's why I think between the rule and the ultimate vote, if you read the bill, we have made the changes.

In addition to that, let me say that hospitals, all those other entities, Mr. Speaker, they have been considered in the DHS review. DHS has determined that there are only 6,000 facilities that require this kind of scrutiny. So it might be hospitals, it might be anything, but they are already doing it. This is nothing new. It's not adding any, and it's not taking any jobs from small business.

Let me say this bill also requires that DHS assess potential impacts on small business. It's not taking jobs. They have to first decide if it's harmful. If it is, then we put in this program monies to help small business improve their security. It's not an undue requirement for them. I want to make very clear; this bill does not hurt small business. It provides monies to support any vulnerability that DHS might find at a small business. It does not require them to fund that improvement on its own.

It's an effort to get risk tied to threat and vulnerability. That's how we do it. The first piece of legislation we carried in the 110th was a bill addressing risk. But that risk has to be decided based on certain metrics. Those metrics are threats and vulnerabilities.

Regardless of what you might hear, this bill does not do away with jobs. It is small business friendly. Because if there is a vulnerability, a vulnerability is a risk, Mr. Speaker, that the Department determines. Nobody would want to work in an environment where a security risk was identified and not corrected. That's why we have the Department. That's why the Department, through the help of Congress, passed this bill in 2006. We are just doing in the CFATS requirement what's already established.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to my friend from Illinois, Mr. SHIMKUS.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. First of all to my friend, the chairman, when you start involving medical hospitals, you could change medical protocols and that segues into health care debate and other issues.

But I want to start by saying, you cannot tell me that this debate is about safety. You just cannot. Much of this bill is a means to an end to use Homeland Security regulations to force new processes and procedures, in refineries, chemical plants, or water facilities that are going to be more costly.

Now why would we do that? In a time when we have job loss after job loss, why would we add more costs to this struggling economy? Because there's an agenda here, and the agenda is an environmental agenda that's been running this country since the Democrats took over.

I want to point out the hypocrisy of this safety and security debate. I have been reading through the health care bill, and we got it Friday. I have family obligations and other things, so I am not through with it yet, but I almost am through.

The last 300 pages deal with the Indian Health Service, which has never come through the committee process. Why has it not? Because it could not pass on its own.

On page 1,785, I want to read something. So don't tell me safe drinking

water is not a safety and security concern because in your health care bill, this is what you have in there:

''Certain capabilities are not a prerequisite. The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.''

In other words, in our health care bill we're going to give money to build new water purification plants and they don't have to be trained. They don't have to meet any scientific categories.

Here you are putting a burden on private water systems, on community water systems, municipal water plants, and you are going to exempt tribes from even knowing how to operate the water plant.

This is your bill. Page 1,785. Read your bill. Unbelievable. I only read this last night; 1,990 pages. On page 1,785, ''The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate''—shall not be a prerequisite; shall not.

Although we are going to do some weird IST provisions, inherently safer technology, put a new burden on water technology systems, put new burdens on water community systems, put new burdens on rural systems, you're exempting tribes from even knowing how to operate the water plant.

Mr. HASTINGS of Florida. Mr. Speaker, I appreciate my good friend's passion. I don't know whether he has any Native American tribes in his constituency, but I do. I have Seminoles and Miccosukees in my constituency, and they are as proud of their ability to operate facilities and to do those things. As a matter of fact, quite frankly, both of those tribes are doing a whole whale of a lot better than a part of the systemic institutions that have existed in the non-Native American area.

And I remind my friend that we are not here about the health care bill.

I yield 3 minutes to the distinguished gentlewoman, who is the subcommittee Chair of the Homeland Security committee that has jurisdiction on this particular matter, SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me explain to the colleagues that have gathered here in this august institution that this is the Homeland Security Committee, and, as the American people have asked us to do, we are doing our duty.

I look forward to a vigorous debate on the health care bill, for the American people deserve that vigorous debate and transparency. But today the Homeland Security Committee is doing its job. The idea that we have lived in safety and security since 9/11 to a certain degree has been because of the diligent and vigilant work of the men and women of the Homeland Security Department; members, of course, of the United States military; and Congresspersons who have the absolute duty to address the question of security of this Nation.

I would also remind my good friend that Indian tribes in sovereign areas have a sovereign legal distinction. We know that their structure is somewhat different than what we have.

I rise to support this rule because it is a fair rule. It has allowed a number of amendments by our friends on the other side of the aisle, but this chemical security bill is not a bill that started last week. It started a number of years ago. It has had the jurisdictional oversight of several committees, including the Energy and Commerce Committee.

As I have listened to a number of experts as the subcommittee Chair, we have held hearings, we have authored letters, we have requested briefings, and we have visited sites. I have visited a waste and water system site. I see the vulnerability. I see the utilization of chemicals that could be used or tampered with to contaminate the water of innocent people and innocent families and innocent children.

At the end of each step of the way, in establishing the record for this legislation, we worked in a transparent and a bipartisan manner to ensure that the legislation was thoughtful and well balanced. We dealt with the farmers. Chairman THOMPSON worked with the farmers over a period of time.

You have already heard that we have in this legislation crafted a response to our small businesses, the backbone of America. We have several Republican amendments that were adopted at markup, and I know that the minority staff was able to make important changes with our staff.

Our door remained open. Regardless of the rhetoric that we hear today, this has been a process that is the obligation of Homeland Security to protect the American people. It is no doubt that terrorism has been franchised and there are numerous creative ways that terrorists will be looking to contaminate.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. HASTINGS of Florida. I yield the gentlelady an additional minute.

Ms. JACKSON-LEE of Texas. I thank the distinguished member of the Rules Committee and thank him for managing this bill.

I am grateful to the Committee on Rules for specifically ruling 10 amendments in order, five of which come from our friends on the other side. But this again, I want to emphasize, is a responsibility that is not a nonserious responsibility, because water and wastewater sites proliferate our Nation all over, in rural hamlets and urban centers, and it is necessary to look at that as a potential target of any terrorist, just as our rail system, just as our aviation system.

What is our job than to provide the framework than to ensure that our water is secure. Working with the administration, this legislation gives regulatory authority over chemical facilities for DHS while giving EPA a lead role.

I look forward to the passage of this legislation. Why? Because the American people send us here to do our job, and our job is to provide for the security of the American people. I am grateful that over a period of time we have protected small businesses, we are concerned about water and wastewater facilities, chemical facilities, and we will be securing this Nation by pairing this rule and this bill on chemical security.

Mr. Speaker, I rise today to speak in support of the rule for H.R. 2868 and the underlying bill.

The underlying legislation reaffirms our solemn oath to keep the American people safe.

The legislation improves and extends a critical DHS program.

I have been a champion of previous iterations of this legislation and I am an original co-sponsor of H.R. 2868.

By holding hearings in my Subcommittee on chemical security, authoring letters, and requesting briefings, I have been intimately involved in the implementation of this program and assessing its needs.

At each step of the way in establishing the record for this legislation, we worked in a transparent, bipartisan manner to ensure that the legislation was thoughtful and well balanced.

Several Republican amendments were adopted at mark-up and I know that Minority staff was able to make important changes at the staff level.

Regardless of the rhetoric we hear today, this legislation will be considered following a process of which we can all be proud.

I am grateful to the Committee on Rules for ruling 10 amendments in order, 5 of which come from our friends on the other side of the aisle.

Today's discussion will further demonstrate this process' commitment to fairness and transparency.

Working with the support of the Administration, this legislation gives regulatory authority over chemical facilities to DHS while giving EPA a lead role, in consultation with DHS, over water and wastewater facilities.

I look forward to the passage of H.R. 2868, which will represent the culmination of comprehensive and collaborative efforts to protect the American people while doing so in a manner that understands the sector being regulated.

I support the rule for H.R. 2868 and I look forward to passage of the critical chemical security legislation in the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, before closing, I will yield 20 seconds to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, just very briefly, I want to thank the chairlady of the subcommittee for commenting on the amendments that were adopted in the Homeland Security Committee on a bipartisan basis. Those amendments were stripped out of the bill that we are considering today. They are not in. So even though we had amendments

in the bill that came out of the Homeland Security Committee, they are not here in this bill today.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend from Rhode Island, a member of the Energy and Commerce Committee, Mr. LANGEVIN.

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act, and in strong support of the underlying bill. I thank the gentleman for yielding the time and for all those who had a hand in bringing this legislation to the floor.

This bill will help secure our chemical infrastructure from attack or sabotage, and I want to particularly thank Chairman THOMPSON for focusing particular attention on cyber threats to this sector.

Securing our critical infrastructure from cyber attack cannot be an afterthought. The vulnerabilities to control systems and network infrastructure are numerous and, if ignored, could have serious consequences just as severe as a physical attack. This bill will require increased cybersecurity training, improved reporting of cyber attacks and a chemical facility security director who is knowledgeable on cyber issues, greatly increasing the opportunity to address and prevent cyber attacks before any damage occurs.

Cybersecurity and cyber vulnerabilities are one of those areas that are not fully addressed across government to this point. We can see that from numerous cyber penetrations and exfiltration of data that clearly more needs to be done in this area. The most critical area, though, and the area of greatest vulnerability is critical infrastructure. This act today takes a major step forward in addressing an area that could cause widespread damage or potentially loss of life.

This is an important piece of legislation. I urge my colleagues to support it.

□ 1130

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, the American people are demanding that we have at least 72 hours on any legislation and every piece of legislation, to read it and study it before it is brought to the floor; 182 Members have signed a discharge petition to consider a bill that would require that.

That is why today I will be asking for a ''no'' vote on the previous question, so we can amend this rule and allow the House to consider that legislation, H. Res. 554, offered by Representatives BAIRD and CULBERSON, requiring 72 hours on every piece of legislation before it is taken to a vote.

If anyone is concerned, Mr. Speaker, that that would jeopardize the chemical security bill, be not concerned, because the motion I am making provides for separate consideration of the Baird-Culberson bill within 3 days so we can vote on the chemical security bill and then, once we are done, consider H. Res. 554. The American people are demanding that on every piece of legislation there should be 72 hours to study it and read it thoroughly before it is voted on.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, in closing, I would like to remind my colleagues of the urgency of this legislation. This bill takes important steps to protect our Nation's wastewater infrastructure. Publicly owned treatment facilities serve more than 200 million Americans and consist of 16,000 treatment plants, 100,000 major pumping stations, and 600,000 miles of sanitary sewers. Damage to these facilities and collection systems could result in loss of life, contamination of drinking water facilities, catastrophic damage to lakes and rivers, and long-term public health impacts.

Also, by requiring the Environmental Protection Agency to establish risk-based performance standards for community water systems serving more than 3,300 people and other exceptional water systems posing significant risk, the bill safeguards our Nation's drinking water supply and restores confidence at a time of upheaval and uncertainty.

I urge a ''yes'' vote on the previous question and on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 885 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, insert the following new section:

SEC. 4. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools

for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. I yield back the balance of my time, and I move the previous question on resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of House Resolution 885, if ordered, and motion to suspend the rules on H. Res. 868.

The vote was taken by electronic device, and there were—yeas 241, nays 180, not voting 11, as follows:

[Roll No. 856]

YEAS—241

Abercrombie
Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Bright
Brown, Corrine
Butterfield
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Spratt
Stark
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—180

Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Baird
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Aderholt
Brady (PA)
Braley (IA)
Capuano
Gohmert
Murphy, Patrick
Nunes
Rogers (MI)
Sánchez, Linda T.
Speier
Stupak

□ 1200

Mr. LoBIONDO changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 182, not voting 17, as follows:

[Roll No. 857]

YEAS—233

Abercrombie
Ackerman
Adler (NJ)
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Bright
Brown, Corrine
Butterfield
Capps
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chandler
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman

Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—182

Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gingrey (GA)
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy (NY)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Aderholt
Andrews
Brady (PA)
Braley (IA)
Capuano
Delahunt
Ellsworth
Garrett (NJ)
Gohmert
Murphy, Patrick
Nunes
Poe (TX)
Rogers (MI)
Sánchez, Linda T.
Stupak
Towns
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on the vote.

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 4, 2009.

Hon. NANCY PELOSI,
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Cathy Mitchell, Chief of the Elections Division of the California Secretary of State's office, indicating that, according to the unofficial returns of the Special Election held November 3, 2009, the Honorable John Garamendi was elected Representative to Congress for the Tenth Congressional District, State of California.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,
Clerk.

Enclosure.

STATE OF CALIFORNIA,
SECRETARY OF STATE,
Sacramento, CA, November 4, 2009.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives, The Capitol, Washington, DC.

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 3, 2009, for Representative in Congress from the Tenth Congressional District of California, show that John Garamendi received 66,311 votes or 52.98% of the total number of votes cast for that office.

According to the unofficial results, John Garamendi has been elected as Representative in Congress from the Tenth Congressional District of California.

To the best of the Secretary of State's knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by Alameda, Contra Costa, Sacramento, and Solano counties, an official Certificate of Election will be prepared for transmittal as required by law.

Sincerely,

CATHY MITCHELL,
Chief, Elections Division.

SWEARING IN OF THE HONORABLE JOHN GARAMENDI, OF CALIFORNIA, AS A MEMBER OF THE HOUSE

Mr. STARK. Madam Speaker, I ask unanimous consent that the gentleman from California, the Honorable JOHN GARAMENDI, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the California delegation present themselves in the well.

Mr. GARAMENDI appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 111th Congress.

WELCOMING THE HONORABLE JOHN GARAMENDI TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. The gentleman from California (Mr. STARK) is recognized for 1 minute.

Mr. STARK. Madam Speaker, as Dean of the California delegation, it is my pleasure to introduce the newest addition to our delegation, JOHN GARAMENDI. He and his wife, Patti, began their years of public service as Peace Corps volunteers in Ethiopia. Since then, JOHN has spent over 27 years serving the people of California in the State Assembly, as Insurance Commissioner, and as Lieutenant Governor, and he helped preserve our Nation's parks and wildlife as President Clinton's Deputy Secretary of the Interior.

As we prepare to enact health care reform, JOHN will lend an effective voice to that effort. As California's Insurance Commissioner, he learned the problems families face when trying to buy health coverage. He is an expert on insurance regulation, and his perspective will be of great value.

Please join me in welcoming John Garamendi, his wife Patti, their six children, and nine grandchildren to our congressional family.

I would like at this time to yield to the distinguished ranking Republican, Congressman DREIER.

Mr. DREIER. Madam Speaker, I thank my good friend, Mr. STARK, for yielding, and I want to join from our side of the aisle in extending congratulations to Governor GARAMENDI. It is interesting that he is now part of a long-standing tradition of the relationship between California's congressional delegation and the Office of Lieutenant Governor of California.

As I look across the aisle at my friend Mr. STARK and many others, we have had the privilege of serving with two former Lieutenant Governors who came to the House of Representatives, Glenn Anderson and Mervyn Dymally, and of course, the very distinguished opponent Mr. GARAMENDI had, David Harmer's father, John Harmer, served as Ronald Reagan's Lieutenant Governor. And so I know that this is another in that long list of challenges that Mr. GARAMENDI will face, and I hope very much, Madam Speaker, that we will be able to work together in a bipartisan way to address the needs of our State and our Nation as well.

We extend congratulations.

□ 1215

The SPEAKER. Without objection, the gentleman from California, Representative JOHN GARAMENDI, is recognized for 1 minute.

There was no objection.

Mr. GARAMENDI. Madam Speaker, it is a great privilege, indeed, I suspect the greatest privilege, a person could have to stand in the well of the House of Representatives of the United States of America and address this august body. It is a privilege that I shall always remember, and I will always remember this particular moment.

Allow me a moment, if I might, of personal privilege to introduce my wife of almost 44 years, Patti. She is delighted to return, at least in part, to her old stomping grounds here in Washington as the associate director of the Peace Corps and then as the deputy director of the Foreign Agricultural Service in the Department of Agriculture.

We have with us our six children. They're there in the gallery, and I think all of you may have seen six of our nine grandchildren. There are a couple who are testing the H1N1 vaccine back home in California.

Madam Speaker, if I might just tell you what a great privilege it is for me to be here. I look forward to working with all of you on the floor who are here and who are not here today. We have many, many issues that I will look forward to addressing.

I want to congratulate my opponent in the primary, David Harmer, who ran a very solid and, fortunately for me, unsuccessful race but, nonetheless, a very solid race; and he is a very good person.

I want to thank the voters in my district and all of the constituents for their support, giving me this opportunity to extend what has been the most important thing that, I think, any of us could ever do, and that is to spend our life in public policy, addressing the issues that confront our fellow citizens and the world beyond.

Thank you so very much for the privilege and honor.

Madam Speaker, thank you.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from California, the whole number of the House is 434.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOLDEN). Without objection, 5-minute voting will continue.

Mr. DREIER. I object.

The SPEAKER pro tempore. Objection is heard.

HONORING CURRENT AND FORMER FEMALE MEMBERS OF THE ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 868, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 868.

The vote was taken by electronic device, and there were—yeas 366, nays 0, not voting 67, as follows:

[Roll No. 858]

YEAS—366

Abercrombie
Ackerman
Adler (NJ)
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd
Brady (TX)
Bright
Brown, Corrine
Buchanan
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Forbes
Fortenberry
Foster
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Garamendi
Gerlach
Giffords
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lowey
Lucas
Luetkemeyer
Luján
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—67

Aderholt
Akin
Bachmann
Barrett (SC)
Biggert
Bilbray
Blunt
Boccieri
Boehner
Boustany
Brady (PA)
Braley (IA)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Capuano
Carter
Chaffetz
Coffman (CO)
Davis (KY)
Diaz-Balart, M.
Fleming
Foxx
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Granger
Hastings (WA)
Hill
King (IA)
Lee (NY)
Linder
Lofgren, Zoe
Lummis
Marchant
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Murphy, Patrick
Myrick
Neugebauer
Nunes
Olson
Olver
Pence
Poe (TX)
Pomeroy
Posey
Price (GA)
Rogers (KY)
Rogers (MI)
Royce
Sánchez, Linda T.
Schmidt
Shadegg
Shuster
Stearns
Stupak
Sullivan
Thompson (PA)
Tiahrt
Wamp
Wilson (SC)

□ 1237

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. STEARNS. Mr. Speaker, on rollcall No. 858, I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. COFFMAN of Colorado. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. MICA. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mrs. BIGGERT. Mr. Speaker, on rollcall No. 858, honoring and recognizing the service and achievements of current and former female

members of the Armed Forces I was absent. Had I been present, I would have voted "yea."

Mr. BUYER. Mr. Speaker, on rollcall No. 858, I was unavoidably detained and therefore did not vote on passage of H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces. Had I been present, I would have voted "yea."

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following vote. If I had been present, I would have voted as follows: Rollcall vote 858, on motion to suspend the rules and agree—H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces—I would have voted "yea."

Mr. THOMPSON of Pennsylvania. Mr. Speaker, on rollcall No. 858, I was unintentionally late upon return to the House Chamber and consequently missed this vote due to a meeting with my constituents who traveled to Washington, DC, to voice their opposition of pending health care legislation. I most certainly share overwhelming sense of the House in honoring and recognizing the service and achievements of current and former female members of the Armed Forces. Had I been present, I would have voted "yea."

Ms. FOXX. Mr. Speaker, on rollcall No. 858, I was unavoidably detained but as a co-sponsor of the resolution I would have voted "yea."

Mr. GINGREY of Georgia. Mr. Speaker, on rollcall No. 858, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. WILSON of South Carolina. Mr. Speaker, today I missed a rollcall vote. Unfortunately I missed this vote due to a scheduling conflict.

Had I been present I would have voted "yea" on rollcall vote No. 858, On Motion to Suspend the Rules and Pass, H. Res. 868, honoring and recognizing the service and achievements of current and former female members of the Armed Forces.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2009

Mr. RANGEL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3548) to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Worker, Homeownership, and Business Assistance Act of 2009''.

SEC. 2. REVISIONS TO SECOND-TIER BENEFITS.

(a) IN GENERAL.—Section 4002(c) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''If'' and all that follows through ''paragraph (2))'' and inserting ''At the time that the amount established in an individual's account under subsection (b)(1) is exhausted'';

(B) in subparagraph (A), by striking ''50 percent'' and inserting ''54 percent''; and

(C) in subparagraph (B), by striking ''13'' and inserting ''14'';

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

SEC. 3. THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

''(d) THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

''(1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (c)(1) (hereinafter 'second-tier emergency unemployment compensation') is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter 'third-tier emergency unemployment compensation') equal to the lesser of—

''(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law; or

''(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

''(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

''(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

''(i) were applied by substituting '4' for '5' each place it appears; and

''(ii) did not include the requirement under paragraph (1)(A) thereof; or

''(B) such a period would then be in effect for such State under such Act if—

''(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

''(ii) such section 203(f)—

''(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

''(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

''(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.''.

(b) CONFORMING AMENDMENT TO NON-AUGMENTATION RULE.—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) by striking ''then section 4002(c)'' and inserting ''then subsections (c) and (d) of section 4002''; and

(2) by striking ''paragraph (2) of such section)'' and inserting ''paragraph (2) of such subsection (c) or (d) (as the case may be))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

SEC. 4. FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 3(a), is amended by adding at the end the following new subsection:

''(e) FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

''(1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (d)(1) (third-tier emergency unemployment compensation) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (hereinafter 'fourth-tier emergency unemployment compensation') equal to the lesser of—

''(A) 24 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law; or

''(B) 6 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

''(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

''(A) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

''(i) were applied by substituting '6' for '5' each place it appears; and

''(ii) did not include the requirement under paragraph (1)(A) thereof; or

''(B) such a period would then be in effect for such State under such Act if—

''(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

''(ii) such section 203(f)—

''(I) were applied by substituting '8.5' for '6.5' in paragraph (1)(A)(i) thereof; and

''(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

''(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.''.

(b) CONFORMING AMENDMENT TO NON-AUGMENTATION RULE.—Section 4007(b)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 3(b), is amended—

(1) by striking ''and (d)'' and inserting '', (d), and (e) of section 4002''; and

(2) by striking ''or (d)'' and inserting '', (d), or (e) (as the case may be))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act.

SEC. 5. COORDINATION.

Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4, is amended by adding at the end the following new subsection:

''(f) COORDINATION RULES.—

''(1) COORDINATION WITH EXTENDED COMPENSATION.—Notwithstanding an election under section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any emergency unemployment compensation under subsection (c), (d), or (e) (by reason of the amendments made by sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009), if such individual claimed extended compensation

for at least 1 week of unemployment after the exhaustion of emergency unemployment compensation under subsection (b) (as such subsection was in effect on the day before the date of the enactment of this subsection).

''(2) COORDINATION WITH TIERS II, III, AND IV.—If a State determines that implementation of the increased entitlement to second-tier emergency unemployment compensation by reason of the amendments made by section 2 of the Worker, Homeownership, and Business Assistance Act of 2009 would unduly delay the prompt payment of emergency unemployment compensation under this title by reason of the amendments made by such Act, such State may elect to pay third-tier emergency unemployment compensation prior to the payment of such increased second-tier emergency unemployment compensation until such time as such State determines that such increased second-tier emergency unemployment compensation may be paid without such undue delay. If a State makes the election under the preceding sentence, then, for purposes of determining whether an account may be augmented for fourth-tier emergency unemployment compensation under subsection (e), such State shall treat the date of exhaustion of such increased second-tier emergency unemployment compensation as the date of exhaustion of third-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the third-tier emergency unemployment compensation.''.

SEC. 6. TRANSFER OF FUNDS.

Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking ''Act;'' and inserting ''Act and sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009;''.

SEC. 7. EXPANSION OF MODERNIZATION GRANTS FOR UNEMPLOYMENT RESULTING FROM COMPELLING FAMILY REASON.

(a) IN GENERAL.—Clause (i) of section 903(f)(3)(B) of the Social Security Act (42 U.S.C. 1103(f)(3)(B)) is amended to read as follows:

''(i) One or both of the following offenses as selected by the State, but in making such selection, the resulting change in the State law shall not supercede any other provision of law relating to unemployment insurance to the extent that such other provision provides broader access to unemployment benefits for victims of such selected offense or offenses:

''(I) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor); and

''(II) Sexual assault, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to State applications submitted on and after January 1, 2010.

SEC. 8. TREATMENT OF ADDITIONAL REGULAR COMPENSATION.

The monthly equivalent of any additional compensation paid by reason of section 2002 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438) shall be disregarded after the date of the enactment of this Act in considering the amount of income and assets of an individual for purposes of determining such individual's eligibility for, or amount of, benefits under the Supplemental Nutrition Assistance Program (SNAP).

SEC. 9. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) BENEFITS.—Section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), is amended—

(1) in clause (iii)—

(A) by striking ''June 30, 2009'' and inserting ''June 30, 2010''; and

(B) by striking ''December 31, 2009'' and inserting ''December 31, 2010''; and

(2) by adding at the end of clause (iv) the following: ''In addition to the amount appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated $175,000,000 to cover the cost of additional extended unemployment benefits provided under this subparagraph, to remain available until expended.''.

(b) ADMINISTRATIVE EXPENSES.—Section 2006 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 445) is amended by adding at the end of subsection (b) the following: ''In addition to funds appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board $807,000 to cover the administrative expenses associated with the payment of additional extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, to remain available until expended.''.

SEC. 10. 0.2 PERCENT FUTA SURTAX.

(a) IN GENERAL.—Section 3301 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking ''through 2009'' in paragraph (1) and inserting ''through 2010 and the first 6 months of calendar year 2011'',

(2) by striking ''calendar year 2010'' in paragraph (2) and inserting ''the remainder of calendar year 2011'', and

(3) by inserting ''(or portion of the calendar year)'' after ''during the calendar year''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2009.

SEC. 11. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER TAX CREDIT.

(a) EXTENSION OF APPLICATION PERIOD.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended—

(A) by striking ''December 1, 2009'' and inserting ''May 1, 2010'',

(B) by striking ''SECTION.—This section'' and inserting ''SECTION.—

''(1) IN GENERAL.—This section'', and

(C) by adding at the end the following new paragraph:

''(2) EXCEPTION IN CASE OF BINDING CONTRACT.—In the case of any taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010, paragraph (1) shall be applied by substituting 'July 1, 2010' for 'May 1, 2010'.''.

(2) WAIVER OF RECAPTURE.—

(A) IN GENERAL.—Subparagraph (D) of section 36(f)(4) of such Code is amended by striking '', and before December 1, 2009''.

(B) CONFORMING AMENDMENT.—The heading of such subparagraph (D) is amended by inserting ''AND 2010'' after ''2009''.

(3) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of such Code is amended to read as follows:

''(g) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2008, a taxpayer may elect to treat such purchase as made on December 31 of the calendar year preceding such purchase for purposes of this section (other than subsections (c), (f)(4)(D), and (h)).''.

(b) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—Subsection (c) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) EXCEPTION FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of an individual (and, if married, such individual's spouse) who has owned and used the same residence as such individual's principal residence for any 5-consecutive-year period during the 8-year period ending on the date of the purchase of a subsequent principal residence, such individual shall be treated as a first-time homebuyer for purposes of this section with respect to the purchase of such subsequent residence.''.

(c) MODIFICATION OF DOLLAR AND INCOME LIMITATIONS.—

(1) DOLLAR LIMITATION.—Subsection (b)(1) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR LONG-TIME RESIDENTS OF SAME PRINCIPAL RESIDENCE.—In the case of a taxpayer to whom a credit under subsection (a) is allowed by reason of subsection (c)(6), subparagraphs (A), (B), and (C) shall be applied by substituting '$6,500' for '$8,000' and '$3,250' for '$4,000'.''.

(2) INCOME LIMITATION.—Subsection (b)(2)(A)(i)(II) of section 36 of such Code is amended by striking ''$75,000 ($150,000'' and inserting ''$125,000 ($225,000''.

(d) LIMITATION ON PURCHASE PRICE OF RESIDENCE.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON PURCHASE PRICE.—No credit shall be allowed under subsection (a) for the purchase of any residence if the purchase price of such residence exceeds $800,000.''.

(e) WAIVER OF RECAPTURE OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY.—Paragraph (4) of section 36(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR MEMBERS OF THE ARMED FORCES, ETC.—

''(i) IN GENERAL.—In the case of the disposition of a principal residence by an individual (or a cessation referred to in paragraph (2)) after December 31, 2008, in connection with Government orders received by such individual, or such individual's spouse, for qualified official extended duty service—

''(I) paragraph (2) and subsection (d)(2) shall not apply to such disposition (or cessation), and

''(II) if such residence was acquired before January 1, 2009, paragraph (1) shall not apply to the taxable year in which such disposition (or cessation) occurs or any subsequent taxable year.

''(ii) QUALIFIED OFFICIAL EXTENDED DUTY SERVICE.—For purposes of this section, the term 'qualified official extended duty service' means service on qualified official extended duty as—

''(I) a member of the uniformed services,

''(II) a member of the Foreign Service of the United States, or

''(III) an employee of the intelligence community.

''(iii) DEFINITIONS.—Any term used in this subparagraph which is also used in paragraph (9) of section 121(d) shall have the same meaning as when used in such paragraph.''.

(f) EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following:

''(3) SPECIAL RULE FOR INDIVIDUALS ON QUALIFIED OFFICIAL EXTENDED DUTY OUTSIDE THE UNITED STATES.—In the case of any individual who serves on qualified official extended duty

service (as defined in section 121(d)(9)(C)(i)) outside the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, and, if married, such individual's spouse—

''(A) paragraphs (1) and (2) shall each be applied by substituting 'May 1, 2011' for 'May 1, 2010', and

''(B) paragraph (2) shall be applied by substituting 'July 1, 2011' for 'July 1, 2010'.''.

(g) DEPENDENTS INELIGIBLE FOR CREDIT.—Subsection (d) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', or'', and by adding at the end the following new paragraph:

''(3) a deduction under section 151 with respect to such taxpayer is allowable to another taxpayer for such taxable year.''.

(h) IRS MATHEMATICAL ERROR AUTHORITY.—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting '', and'', and

(3) by inserting after subparagraph (N) the following new subparagraph:

''(O) an omission of any increase required under section 36(f) with respect to the recapture of a credit allowed under section 36.''.

(i) COORDINATION WITH FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.—Paragraph (4) of section 1400C(e) of the Internal Revenue Code of 1986 is amended by striking ''and before December 1, 2009,''.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), (d), and (g) shall apply to residences purchased after the date of the enactment of this Act.

(2) EXTENSIONS.—The amendments made by subsections (a), (f), and (i) shall apply to residences purchased after November 30, 2009.

(3) WAIVER OF RECAPTURE.—The amendment made by subsection (e) shall apply to dispositions and cessations after December 31, 2008.

(4) MATHEMATICAL ERROR AUTHORITY.—The amendments made by subsection (h) shall apply to returns for taxable years ending on or after April 9, 2008.

SEC. 12. PROVISIONS TO ENHANCE THE ADMINISTRATION OF THE FIRST-TIME HOMEBUYER TAX CREDIT.

(a) AGE LIMITATION.—

(1) IN GENERAL.—Subsection (b) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(4) AGE LIMITATION.—No credit shall be allowed under subsection (a) with respect to the purchase of any residence unless the taxpayer has attained age 18 as of the date of such purchase. In the case of any taxpayer who is married (within the meaning of section 7703), the taxpayer shall be treated as meeting the age requirement of the preceding sentence if the taxpayer or the taxpayer's spouse meets such age requirement.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 of such Code, as amended by this Act, is amended by inserting ''(b)(4),'' before ''(c)''.

(b) DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36 of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''or'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', or'', and by adding at the end the following new paragraph:

''(4) the taxpayer fails to attach to the return of tax for such taxable year a properly executed copy of the settlement statement used to complete such purchase.''.

(c) RESTRICTION ON MARRIED INDIVIDUAL ACQUIRING RESIDENCE FROM FAMILY OF SPOUSE.—Clause (i) of section 36(c)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting ''(or, if married, such individual's spouse)'' after ''person acquiring such property''.

(d) CERTAIN ERRORS WITH RESPECT TO THE FIRST-TIME HOMEBUYER TAX CREDIT TREATED AS MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''and'' at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting '', and'', and by inserting after subparagraph (O) the following new subparagraph:

''(P) an entry on a return claiming the credit under section 36 if—

''(i) the Secretary obtains information from the person issuing the TIN of the taxpayer that indicates that the taxpayer does not meet the age requirement of section 36(b)(4),

''(ii) information provided to the Secretary by the taxpayer on an income tax return for at least one of the 2 preceding taxable years is inconsistent with eligibility for such credit, or

''(iii) the taxpayer fails to attach to the return the form described in section 36(d)(4).''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to purchases after the date of the enactment of this Act.

(2) DOCUMENTATION REQUIREMENT.—The amendments made by subsection (b) shall apply to returns for taxable years ending after the date of the enactment of this Act.

(3) TREATMENT AS MATHEMATICAL AND CLERICAL ERRORS.—The amendments made by subsection (d) shall apply to returns for taxable years ending on or after April 9, 2008.

SEC. 13. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) CARRYBACK FOR 2008 OR 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (I) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable net operating loss' means the taxpayer's net operating loss for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

''(iii) ELECTION.—

''(I) IN GENERAL.—Any election under this subparagraph may be made only with respect to 1 taxable year.

''(II) PROCEDURE.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

''(iv) LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.—

''(I) IN GENERAL.—The amount of any net operating loss which may be carried back to the 5th taxable year preceding the taxable year of such loss under clause (i) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the net operating loss for the loss year or any taxable year thereafter) for such preceding taxable year.

''(II) CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of subclause (I).

''(III) EXCEPTION FOR 2008 ELECTIONS BY SMALL BUSINESSES.—Subclause (I) shall not apply to any loss of an eligible small business with respect to any election made under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

''(v) SPECIAL RULES FOR SMALL BUSINESS.—

''(I) IN GENERAL.—In the case of an eligible small business which made or makes an election under this subparagraph as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009, clause (iii)(I) shall be applied by substituting '2 taxable years' for '1 taxable year'.

''(II) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' has the meaning given such term by subparagraph (F)(iii), except that in applying such subparagraph, section 448(c) shall be applied by substituting '$15,000,000' for '$5,000,000' each place it appears.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 OR 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied by substituting any whole number elected by the taxpayer which is more than 3 and less than 6 for '3'.

''(B) APPLICABLE LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable loss from operations' means the taxpayer's loss from operations for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

''(C) ELECTION.—

''(i) IN GENERAL.—Any election under this paragraph may be made only with respect to 1 taxable year.

''(ii) PROCEDURE.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

''(D) LIMITATION ON AMOUNT OF LOSS CARRYBACK TO 5TH PRECEDING TAXABLE YEAR.—

''(i) IN GENERAL.—The amount of any loss from operations which may be carried back to the 5th taxable year preceding the taxable year of such loss under subparagraph (A) shall not exceed 50 percent of the taxpayer's taxable income (computed without regard to the loss from operations for the loss year or any taxable year thereafter) for such preceding taxable year.

''(ii) CARRYBACKS AND CARRYOVERS TO OTHER TAXABLE YEARS.—Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of clause (i).''.

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this

section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 2002.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of any net operating loss (or, in the case of a life insurance company, any loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009, and

(B) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before such due date.

(f) EXCEPTION FOR TARP RECIPIENTS.—The amendments made by this section shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquired before the date of the enactment of this Act an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008,

(B) the Federal Government acquired before such date of enactment any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(C) such taxpayer receives after such date of enactment funds from the Federal Government in exchange for an interest described in subparagraph (A) or (B) pursuant to a program established under title I of division A of the Emergency Economic Stabilization Act of 2008 (unless such taxpayer is a financial institution (as defined in section 3 of such Act) and the funds are received pursuant to a program established by the Secretary of the Treasury for the stated purpose of increasing the availability of credit to small businesses using funding made available under such Act), or

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 was or is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

SEC. 14. EXCLUSION FROM GROSS INCOME OF QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.

(a) IN GENERAL.—Subsection (n) of section 132 of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (1) by striking ''this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure'' and inserting ''the American Recovery and Reinvestment Tax Act of 2009)'', and

(2) in subparagraph (2) by striking ''clause (1) of''.

(b) EFFECTIVE DATE.—The amendments made by this act shall apply to payments made after February 17, 2009.

SEC. 15. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2010'' and inserting ''December 31, 2017''.

(b) CONFORMING AMENDMENT.—Section 864(f) of the Internal Revenue Code of 1986 is amended by striking paragraph (7).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 16. INCREASE IN PENALTY FOR FAILURE TO FILE A PARTNERSHIP OR S CORPORATION RETURN.

(a) IN GENERAL.—Sections 6698(b)(1) and 6699(b)(1) of the Internal Revenue Code of 1986 are each amended by striking ''$89'' and inserting ''$195''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 2009.

SEC. 17. CERTAIN TAX RETURN PREPARERS REQUIRED TO FILE RETURNS ELECTRONICALLY.

(a) IN GENERAL.—Subsection (e) of section 6011 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR TAX RETURN PREPARERS.—

''(A) IN GENERAL.—The Secretary shall require than any individual income tax return prepared by a tax return preparer be filed on magnetic media if—

''(i) such return is filed by such tax return preparer, and

''(ii) such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.

''(B) SPECIFIED TAX RETURN PREPARER.—For purposes of this paragraph, the term 'specified tax return preparer' means, with respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year.

''(C) INDIVIDUAL INCOME TAX RETURN.—For purposes of this paragraph, the term 'individual income tax return' means any return of the tax imposed by subtitle A on individuals, estates, or trusts.''.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6011(e) of the Internal Revenue Code of 1986 is amended by striking ''The Secretary may not'' and inserting ''Except as provided in paragraph (3), the Secretary may not''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after December 31, 2010.

SEC. 18. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 in effect on the date of the enactment of this Act is increased by 33.0 percentage points.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. BRADY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask that all Members have 5 legislative days to revise and extend their remarks and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, along with the Ways and Means Committee ranking member, Mr. CAMP, we asked the nonpartisan Joint Committee on Taxation to make available to the public a technical explanation of the bill. The technical explanation expresses the committee's understanding and legislative intent behind this very important piece of legislation. It is available on the Joint Committee's Web site at www.jct.gov and is listed under the document No. JCX–44–09.

Over 6 weeks ago, the House sent legislation in a bipartisan way to the Senate to extend unemployment insurance for workers who live in high unemployment districts, high unemployment States, that have already used all of the tiers of the benefits available under current law. Since that time, hundreds of thousands of workers have lost or gone without unemployment compensation.

This committee, with the leadership and working together in a bipartisan way, sent to the Senate a bill which allowed an additional 14 weeks of unemployment benefits in every State and a total of 20 weeks in high unemployment States. Our committees worked hard together in order to soften the blow that so many hundreds of thousands of people have felt.

Mr. Speaker, I yield the balance of my time to Chairman JIM MCDERMOTT, who, over his lifetime, has spent so much time in trying to improve the quality of lives of those that have suffered economic deficits in this great country of ours, and with the permission from the Speaker, I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCDERMOTT. Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BRADY of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, I rise in support of key parts of this legislation.

The bill before us today offers long-term unemployment workers in all States 14 weeks of additional unemployment benefits and provides 20 additional weeks of benefits in high unemployment States. In all, with the passage of this bill, a record total of up to 99 weeks of Federal and State unemployment benefits will be paid in a total of 29 States and territories where the unemployment rate is 8.5 percent or greater. In the State of Texas, where the unemployment rate is 8.2 percent, it would provide an additional 14 weeks of unemployment benefits for the long-term unemployed who continue to struggle to find a new job.

In addition, the bill we are considering today includes a number of important tax relief provisions that will help families, businesses, and our economy as a whole. This bill will extend the $8,000 homebuyer tax credit, which is currently scheduled to expire just a few short weeks from now, until the middle of next year. It will also create a new $6,500 tax credit that will help current homeowners who have lived in their homes for at least 5 years to

move up into new homes. And especially with Veterans Day coming up next week, I'm pleased this bill includes a number of homeownership provisions that would specifically benefit the brave men and women who serve in our Armed Forces.

Taken all together, this bill's homeownership tax relief provisions will provide a much-needed boost to our struggling housing market and our broader economy by helping to soak up the excess housing inventory that we see in so many parts of our country. Estimates show that there may be up to 3 million renters who are currently financially well qualified to buy a median-priced home. Timely help to bolster the housing market is essential.

Another important component is the expanded net operating loss provision, which will provide an immediate cash infusion to struggling businesses, large and small, all across the Nation. By giving businesses that are currently in loss positions the opportunity to claim refunds on taxes they paid when they were profitable, we can help employers make crucial new investments in our economy and, most importantly, free up additional payroll to help get more Americans back to work. That's the goal that all of us on both sides of the aisle should share. And I'm pleased to support the 5-year net operating loss carryback included in this legislation.

But this is not the end of the process. There is much more work to be done. Before the end of the year, the House is expected to consider legislation to extend the current Federal extended unemployment benefit program possibly through all of next year. This would cost $80 billion or more and simply add to the enormous deficits and equally enormous State tax hikes on jobs this system is amassing.

All of this begs the question: Where are the jobs? While long-term unemployed workers appreciate the additional help, what they really want is a good job. Yet for all the massive spending and debt we've incurred this year in the name of stimulating the economy, job creation is one thing this administration and congressional Democrats have failed to deliver. Unfortunately, that's why we are here today. These policies and stimulus have failed.

Mr. Speaker, I reserve the balance of my time.

□ 1245

Mr. McDERMOTT. Mr. Speaker, I yield myself as much time as I may consume.

We've waited for 6 weeks for the Senate to dither around on this bill. The decisions made in it could have been made in a week if they really were thinking about the half million people who have lost their benefits over the last 6 weeks. Since the House acted, that's happened. There have been no jobs, no benefits, and no hope. Now, today, we can restore that by the bill that's before us, and also perhaps give them some hope that this won't happen in the future.

This legislation returned from the Senate will provide an additional 14 weeks of unemployment benefits in every State and a total of 20 weeks in high unemployment States. I welcome the additional weeks in the bill compared to the legislation we sent over. It seems the least we can do after we've made them wait for 6 weeks. However, I heard concerns that the complexity of the Senate amendment may present some administrative challenges for State government, so I hope every State is actively planning on how to deliver these benefits in the quickest possible time frame. This is a wake-up call to State unemployment insurance programs.

I would ask my colleagues to keep in mind that Congress must act again before the end of this year to continue the extended unemployment benefits that we are now improving.

The cost of this extension of unemployment benefits is completely offset by an 18-month continuation of a tax called the FUTA surtax, which has been in place for over 30 years. In addition to helping unemployed workers, this bill now includes the extension and expansion of two other relief provisions. One helps and encourages those buying homes and another helps struggling businesses.

Mr. Speaker, our Nation has lost 8 million jobs since the great recession started in December of 2007. Even as we see signs of economic recovery, such as last week's announcement that the GDP rose substantially for the first time in over a year, we know it will take considerable time to restore those lost jobs. There are predictions that it will rise above 10 percent nationally and will not come down until late in 2010.

We must continue to provide the lifeline for the unemployed workers who have lost their jobs from no fault of their own and who are searching for new employment. Sending this bill to President Obama today will accomplish that goal for over 1 million of our fellow citizens before the end of the year. Additionally, it would help keep families in their homes and prevent foreclosures. This is the right thing to do, and we shouldn't have waited so long to do it.

Mr. STARK. Would the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. STARK. I associate myself with the remarks of the distinguished chairman and urge adoption.

Mr. McDERMOTT. I reserve the balance of my time.

Mr. BRADY of Texas. I yield 5 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank the gentleman for yielding.

Six weeks ago, we stood on this floor to discuss a prior version of this bill providing extended unemployment benefits. Since then, we have gotten additional checkups on jobs and unemployment in the United States, and the Democrats' 2009 stimulus plan has received more failing grades. Another 263,000 jobs were eliminated in September, and the unemployment rate rose to 9.8 percent. More job losses and higher unemployment are expected to be announced tomorrow. This and other Democrat legislation is perpetuating unemployment, not solving it.

The Democratic energy policies would increase the price of energy and kill millions of jobs. The Democrat health policies would make health care and health insurance more expensive and kill millions of jobs. Democrats promised a stimulus policy that would keep unemployment from exceeding 8 percent. It is now 9.8 percent, soon to reach 10 percent. Despite administration claims that 1 million jobs were saved or created, nearly 3 million real jobs have been destroyed since the stimulus plan was signed into law, and yesterday we found out how they count saved jobs.

Stimulus money went to a south Georgia community organizing group. They took all the money and gave raises to their employees and put information into the administration that they had saved 980 jobs. They have 508 employees. But they gave them raises, and the administration has a formula for how you can call that a job saved.

Like those job losses, the bill before us has only grown. In all, this legislation would now make available a record 99 weeks of unemployment benefits in more than half of the United States, but what it doesn't make available are jobs. Americans are rightly asking, Where are the jobs? Our colleagues on the other side have no answers, other than to spend more, tax more, and borrow more. That is not good enough.

But the good news is that we can start to turn this around. For starters, we could not raise taxes on jobs, as this legislation does. It raises taxes on jobs by $2.4 billion in the coming 18 months, hitting every employee in America, and that's to pay for benefits paid out generally in the next 2 months. How does raising taxes create jobs? It won't. And this bill isn't the end. Far from it.

Before this year is out, we will be back on this floor passing yet another extension of Federal unemployment benefits, only the next bill will be so massive—possibly costing $80 billion—even Democrats won't be able to stomach the tax hikes to pay for it. So we will borrow that money, adding to the $100 billion in unemployment benefit spending already scheduled to be piled onto our debt by the end of this year. How will that create jobs? It won't.

Mr. Speaker, we can and must do better. It is well past time for us to shelve Democratic job-killing tax hike agendas. We will then unleash America's job creation engine so that laid-off workers can once again earn paychecks, not unemployment checks.

That effort can start with not raising taxes on jobs and by offering unemployed workers real help in finding new work instead of just more benefit checks. Sadly, this bill does none of that. How then will it create jobs? It won't.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. This bill combines equity and growth. Equity for the unemployed, people who are looking for work. The estimate is that 1.3 million will exhaust their benefits by the end of the year. This is a response. There are six people looking for every job. The Michigan Unemployment Office has been swamped with phone calls. Today, one of the staff there told my office: These are the unemployed. They call asking, When is Congress going to pass this extension? What are they waiting for? Don't they understand we are desperate?

As to growth, there are two provisions here. I am surprised that the previous speaker says nothing is being done to create jobs when we have two provisions here that are aimed to do that. The homeowners' tax credit is extended and is also expanded, and the net operating loss provision is inserted here to create jobs. This is a bill that combines equity and, hopefully—and I think it will—create jobs.

So let's vote for it without equivocation and, if I might say, without debating other issues like health care. We'll debate those tomorrow and Saturday.

Mr. BRADY of Texas. I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

One of the things that has been a real drag on the economy, Mr. Speaker, has been the housing industry, and the tax credit that we've given first-time homebuyers, according to the Realtors and the homebuilders with whom I've talked, has been a real plus. That is one of the few things that we've done around here that has helped the economy and helped create some jobs.

Now, in this bill, we're not only extending the first-time homebuyer credit, which I think is going to help the economy, but we're also going to say to people that already own homes, we're going to give you a $6,500 tax credit if you choose to move up and buy another house. That's been one of the shortcomings that we've had over the last few months, because people that want to get another home feel like with the economy being the way it is right now, they don't want to move. But if you encourage them with a $6,500 tax credit—a tax credit. We like tax cuts and tax credits. If we give them a $6,500 tax credit, I guarantee you there is going to be a lot of people that will move up into more homes, newer homes, and it will really help economic growth in this country.

So I just want to congratulate the sponsors, even on the Democrat side, for putting this in the bill. I really think this is a plus. I don't compliment my colleagues too much over there, but the $8,000 tax credit that is being extended for first-time homebuyers is good, and the $6,500 tax credit for people that are going to buy a home, a second home or a third home, as they get rid of their first one, I really think this is going to be a plus for the economy. So even though I disagree with my colleagues 95 percent of the time, this is one time they have put something good in a bill.

Mr. McDERMOTT. Mr. Speaker, I would remind the gentleman from Indiana, even a stopped clock is right twice a day.

I am now going to yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise today in strong support of this legislation. I want to thank my good friend, the chairman, Mr. McDERMOTT, for his hard work in bringing this bill to the floor.

Under this bill, a Georgian would receive an additional 20 weeks of unemployment benefits. Many have been waiting, worrying, and juggling bills for months. People from all over the State of Georgia call my offices every day asking what is taking Congress so long to act. Let me be clear, these are not people who want a handout. These are people who want to work. Many are older workers with all levels of education who have worked in the same jobs for years, and now their jobs are gone, just gone.

We can act today, and we must act. Now is the time to act to pass this legislation, send it to the President, and let him sign it into law so our citizens will receive the necessary benefits.

Mr. BRADY of Texas. I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore. The gentleman from Washington has 12½ minutes remaining, and the gentleman from Texas has 12 minutes remaining.

Mr. McDERMOTT. Thank you.

I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Thank you.

Mr. Speaker, last week we saw that 5.8 million Americans were collecting unemployment benefits at the end of October. I want to remind my friends on both sides of the aisle that in the first quarter of this year, we saw a loss of 691,000. The stimulus went into effect—partially, anyway—after we passed it in February with no votes from the other side, and in the third quarter of this year, we're at a loss of 256,000. That's a gain of 435,000 jobs. You compare that to the last year, the last 4 years of the former administration, and I think that the stimulus has been a great help.

This Congress is working hard to get people back on their feet. For this reason, it is imperative that, today, we pass the Unemployment Compensation Extension Act.

I am proud to say that we've also extended the homebuyer assistance through the first-time homebuyer tax credit while putting in place new and significant fraud protection. I think that's important. It came out in Mr. LEWIS' hearings, and we've done something about that.

I applaud Chairman LEWIS for convening a hearing through the Ways and Means Oversight Subcommittee on the first-time homebuyer tax credit, which brought light to some of the abuses that were plaguing this important credit. The American people need to know that this Congress is working to remedy the insufficient regulation and oversight that has plagued our Nation for too long.

I urge all my colleagues on both sides to take swift and decisive action to pass this legislation.

Mr. BRADY of Texas. I understand Chairman McDERMOTT has additional speakers, so I will reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I thank the gentleman from Washington for yielding.

Mr. Speaker, I rise today in strong support of H.R. 3548. This proposal would extend unemployment benefits by 20 weeks for workers in States with high unemployment, like Nevada. This would serve as a lifeline, aiding those still struggling to find work in Las Vegas and other parts of Nevada. The once recession-proof economy of my district of Las Vegas has not been spared from the effects of this downturn. Quite the contrary. Nevada has been hard-hit, and almost harder hit than any other State by the foreclosure crisis, and currently our unemployment rate has skyrocketed to over 13 percent, second highest in the Nation.

□ 1300

Additionally, this bill includes important tax provisions, extending and expanding the homebuyer tax credit and allowing businesses to carryback losses in 2008 or 2009 for 5 years. The extended homebuyer credit will allow more people to purchase a home in my district and help stop the continued downward spiral in housing prices caused by the foreclosure crisis. The net operating loss provision will help keep businesses afloat during the tough times, preventing further layoffs.

Mr. BRADY of Texas. I continue to reserve my time.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. This bill represents a textbook example of how not to deal with the economic challenges that our country faces. While previously approved by the House solely to address

the needs of the unemployed in economically depressed areas at a cost of a little more than a billion dollars, the Senate has taken the good work of Chairman MCDERMOTT, delayed it, not responded promptly, and has now mushroomed the cost to $24 billion.

Economists have advised us that every dollar we invest to help the unemployed spurs economic growth (GDP) by $1.61, very effective, a real winner, what the House did originally. But the corporate giveaway that the Senate added to this bill—the so-called ''loss carry-back provision''—yields, according to the same economists, 19 cents for every dollar of revenue that we invest—a real loser.

Today's bill allocates $2 billion to the winner and $10 billion to the loser.

Understand that this bill now directs the Treasury to essentially write a check directly to corporations for more than $10 billion; checks to corporations that have committed fraud, checks to corporations that have no ability to create jobs because they have no employees and exist solely on paper as a fiction. It rewards some of the very corporate losers who have brought us to the brink of economic ruin.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCDERMOTT. I yield the gentleman an additional 15 seconds.

Mr. DOGGETT. If this is such a great idea, why don't we first apply loss carry-back to workers who have lost their jobs and give them back some of the taxes that they paid when they had a job? That would certainly be more stimulative.

As we move forward next month to extending benefits for next year, it will be much more costly. We should use this lesson as a reminder that good policy to address jobs and the needs of the unemployed should not be burdened with windfalls to those with good lobbyists.

Mr. BRADY of Texas. Mr. Speaker, I yield myself 2 minutes.

While there are serious disagreements about what direction to go on the economy, there is bipartisan support for the provisions to help people try to buy that first home or to move up into that next one, and there is bipartisan support across the aisle strongly in this Congress to help small businesses survive this recession, not just small businesses but medium-sized businesses and larger businesses. The truth of the matter is, a job is a job. And if we can help companies weather this storm, if we can help them keep workers on the payroll, if we can help them sort of balance out their tax payments over these years, allow them to be in a position to recover and grow when this economy finally does grow, I think that that tax relief, targeted to those who can most create jobs, is extremely helpful.

I reserve the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to JOE COURTNEY, the gentleman from Connecticut.

Mr. COURTNEY. Mr. Speaker, last fall, 2008, this country got a lesson in how central the housing market is to the American economy. When housing prices started to fall, the financial markets soon followed, and we are today now in the deepest recession since the Great Depression.

In the stimulus bill last February, we included a first-time homebuyer tax credit, which by all accounts has been a smashing success in terms of increasing home sales and stabilizing housing prices. The market, though, needs a little bit more time to nurture, and that is why, as has been said earlier, there is strong bipartisan support for extending this tax credit.

I, along with Congressman CALVERT from California, put together a letter with 165 signatures in support of extending the tax credit. I salute the chairman and all the leadership who worked hard on a bipartisan basis to make sure that we are going to continue to grow the real estate market. That's how we got into this recession and that's how we are going to get out of it.

I urge strong support for the measure.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the majority leader, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman from Washington, and I rise in support of this bill.

Mr. Speaker, a year ago this week Barack Obama was elected President in the midst of the greatest economic crisis in almost three-quarters of a century. Since his inauguration and the swearing in of the 111th Congress, we have been working hard to turn our economy around and put America and Americans back to work.

And whether we are Democrats or Republicans, there is reason for hope in the results we have seen in that time, because they mean growing economic security for the people we represent. We're not there, we need to keep working on it, but we've made progress.

Last month, we saw news that the American economy grew at a rate of 3.5 percent between July and September. That, Mr. Speaker, is the best growth in 2 years and a reversal of four quarters of decline. That's progress. It is not yet success.

According to Moody's, the Congressional Budget Office and the Council of Economic Advisors, the Recovery Act has saved or created about 1 million jobs. The Center on Budget and Policy Priorities recently concluded that the Recovery Act kept 6 million Americans from falling into poverty and reduced the severity of poverty for 33 million Americans. It was the right thing to do. But we're not there yet. Facts like these have combined to convince unbiased observers that the recession the President inherited is over.

Yet that is not the whole picture. For millions of American families struggling with unemployment, the recession is not over. It's not over until their loved ones get back to work, until they have a job, until they can pay for the housing and the food and the clothing and the schooling their families need.

So we in Congress cannot consider the work of recovery done until those jobs are back. The truth is that long-term unemployment remains at its highest rate since we began measuring it in 1948. Over 33 percent of the total unemployed have been out of work for more than 26 weeks.

And because it's harder to get hired the longer you've been out of the workforce, long-term unemployment can become a vicious cycle. This bill lends a hand to nearly 2 million Americans whose unemployment insurance is set to run out by the end of the year. It extends their unemployment insurance by up to 14 weeks, and by a further 6 weeks in the States with the most difficult job markets. This means they will be able to survive; not thrive, but survive.

Who are those 2 million Americans and who will benefit? Many of them are middle-class Americans who lost their jobs without warning. According to a survey recently conducted at the Rutgers University, ''Six in 10 of those whose employer had let them go had no advance warning.'' What a wrenching experience that was, for them, for their spouses, for their children and, yes, for their entire extended families, as well as their communities.

Adding to the pain for many, nearly four in 10 said they had been employed by their company for more than 3 years and one in 10 more than a decade. These were people with stable jobs and commitments based upon those stable jobs, such as college payments and mortgages. People have found the ground falling out from under them through no fault of their own. We owe it to them, Mr. Speaker, and their families to help, and we owe it to our economic health as well.

The money provided by unemployment insurance quickly goes to necessities and boosts local economies. In fact, according to the CBO, every dollar we spend on unemployment insurance generates $1.61 in local economic activity, making this bill an investment that pays off for all of us, so we have a win-win situation here. We help people in very bad straits; and we help our economy and help us all. I am also glad that this bill is fiscally sound. It's fully paid for. It does not contribute to the deficit.

Though we have made progress since the depths of last winter and the depths of the recession inherited by President Obama and this Congress, there is, as I have said, clearly more work to do. We pledge to continue that work. We can take action today for those families for whom recovery is not yet a reality, and I urge my colleagues to support this legislation.

Mr. BRADY of Texas. I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I have great respect for the majority leader. I just want to correct a couple of things that he said.

He said this is the worst economy in the last three-quarters of a century, and I would like to bring to his attention that in the Jimmy Carter administration we had 12 percent unemployment, which is worse than now. We had 14 percent inflation. When Ronald Reagan came in, Mr. Volcker had to raise the interest rates, or did raise the interest rates, to 21.5 percent. What happened was the economy took another huge nosedive because of the terrible inflation and economic problems that were created during the Carter administration, which was not three-quarters of a century ago; it was just a mere 20-some years ago.

The other thing I would like to say is that while we are doing the right thing by passing this bill, and I complimented my colleagues on the other side of the aisle for the extension of the home building credit for first-time homebuyers and adding to it the tax credit for second-time homebuyers—and I think those are great steps in the right direction, and I will support this bill—the things that they are doing on the other side of the aisle with the stimulus bill, $1 trillion, with the health care bill that they are going to try to ram through here Saturday that's going to cost $1 to $3 trillion that we don't have, when there is a better way to do that, really troubles me.

I would hope my colleagues would start thinking about what Ronald Reagan did because the deficits were so high and inflation was so high, and that is cut taxes. When you cut taxes, you stimulate economic growth and you sell more products and people go back to work. That creates economic expansion.

Mr. MCDERMOTT. Mr. Speaker, may I have the time remaining?

The SPEAKER pro tempore. The gentleman from Washington has 4¾ minutes remaining and the gentleman from Texas has 9 minutes remaining.

Mr. MCDERMOTT. I yield 1 minute to the Speaker of the House, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding and thank him for his longstanding leadership on this issue that relates to the economic well-being of America's families.

Anytime families gather across America at their dinner table to see how they are going to make ends meet or struggle through the loss of a job, they know they have a friend in JIM MCDERMOTT in the Congress. This has been one of his premier issues, and he has served them and this Congress and this country excellently in that regard. I thank him for bringing this legislation to the floor.

We passed this bill over a month ago. At long last it is back, but we are glad it is back, no matter how long it took. I am pleased to rise to support the legislation.

The bill will mark another step forward to boost our economic growth, and it will make a critical investment in our families and our workers.

This legislation offers a lifeline to out-of-work Americans, to the men and women hardest hit by the recession, by extending unemployment benefits—you have heard it over and over—by 14 weeks nationwide and an extra 6 weeks in States suffering the highest jobless rates. It's a smart choice for our Nation's economy. Every dollar spent on unemployment benefits generates more than $1.60 in new economic demand. It's good for businesses. It's good for workers.

This money, because it is so needed by these out-of-work families will, again, be spent immediately, inject demand into the economy, creating jobs, to the tune of $1.60 for every dollar. It's hard to think of any other initiative we can name that is as beneficial to job creation.

□ 1315

Its original purpose is fairness to those workers who have paid into the insurance system, and now they are getting an insurance benefit. But it also has an impact as a stimulant. It means more Americans will have access to the support and assistance they need to get back on their feet, reenter the workforce, contribute to our economy and succeed.

The bill also places a down payment on the future of our middle class because it extends for the first-time homebuyer a tax credit, helping more Americans purchase homes and making it is a little easier for families to move into a new house and keep a roof over their heads.

This initiative has already been successful. We have seen the positive impact, the steadier foundation in our housing market. Most significantly, we have watched new generations of Americans start living out their dream of homeownership and economic security.

The bill also has the net operating loss carryback, which businesses tell us is necessary for them to succeed and to hire new people, and also to mitigate some of the damage that has been done to the economy from past policies.

Taking action now to turn around our country is our most urgent and pressing challenge. It must be our top priority, regardless of party. That is why I am so pleased that we are going to have such a strong bipartisan vote. Mr. BRADY, thank you today.

The House acted more than a month ago, as I mentioned, to pass the bill and help 1.3 million Americans set to lose their unemployment benefits by the end of the year. Today, we are proud to see the Senate version come back to the floor, to this Chamber. We would have wanted it sooner, but here it is.

The Nation's leaders have a responsibility to give every American the opportunity to recover, to thrive, to reap the rewards of our common progress and to take part in our prosperity. Today's vote is about a never-ending effort to put our economy on the road to recovery, create jobs, and establish the building blocks for growth in the long term.

President Obama has said over and over again, and so eloquently, that our success here would be measured only in the progress made by America's families as they get back on their feet and as we help them address their economic struggles.

The economic security of America's families is important to them, to their children, to their children's future; and it is important to the strength of our country. For that reason, I again commend Mr. MCDERMOTT and Mr. BRADY and urge all Members to support this bill.

Mr. BRADY of Texas. Mr. Speaker, I reserve my time.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman, and I want to offer my strong support for this legislation that is before us today and certainly to acknowledge the role that Mr. RANGEL and Mr. MCDERMOTT played and the leadership they offered to us on this legislation.

This bill before us is fully vetted and fully paid for. It is bipartisan in nature. I take great satisfaction from the fact that not only does it extend unemployment insurance benefits for many families that need help in this difficult economy, but the reminder that we all ought to embrace, and that is, that in this atmosphere, you are far better off as being perceived for being for something than against everything.

This bill extends the first-time homebuyer credit to help our ailing housing industry get back from the worst record in our history. I support both provisions.

Finally, the bill provides net operating loss relief for many businesses that have been simply hanging on in this country over the last year. It is particularly important to retailers. Based on a bill that I filed with Representative TIBERI which became the basis for this provision, this relief for businesses, big and small, will provide quick capital at a time when it is currently impossible to find. I think that this is an affirmative position, it ought to be embraced, and I thank Mr. MCDERMOTT for moving it forward.

Mr. BRADY of Texas. I reserve my time.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the gentleman for yielding.

Mr. Speaker, across this country people are suffering. In my State of North Carolina, unemployment has been in double digits for several months. Economists tell us that the economy is turning around, but folks at home don't feel it yet.

This bill continues Congress' critical efforts to restore the economy and put our people back to work. Fixing the economy and creating jobs needs to be our top priority in this economic downturn.

This bill helps folks who are out of work in two ways. First, it extends the safety net of unemployment insurance to those who are struggling the most. This is critical to help people put food on their table and keep their lives together until they can find new employment.

Second, it supports the struggling companies which are trying to create jobs. The tax credits in this bill will help restore the health of businesses so they can get healthy again, contribute to the growth of this economy, and put our people back to work.

I applaud the Senate for their work in joining these two goals and moving it forward. I thank my colleagues for their work and urge my colleagues to vote for H.R. 3548.

Mr. BRADY of Texas. I reserve my time.

The SPEAKER pro tempore. The gentleman from Washington has 1¾ minutes remaining.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank Chairman MCDERMOTT for yielding. I also want to commend the Senate for its work.

I simply rise in support of this legislation. It will provide an opportunity certainly for individuals who are unemployed to continue to receive unemployment compensation, and it will indeed help stimulate the economy by allowing individuals credits for the first time if they are purchasing a home.

It is good legislation. I am pleased to support it and urge that all Members do so.

Mr. BRADY of Texas. I yield myself such time as I may consume.

There is bipartisan support for much of this bill. For all the good this bill will do to help people buy their first home, and perhaps move up, for all the help it will provide to help businesses survive this recession, make no mistake: the unemployment benefits are no substitute for a good job, and in that regard, this Congress and this White House has failed the American public.

We were told that the stimulus bill, all $787 billion of it, $1 trillion with interest, as Christina Romer said, the head of the President's economic advisers, would provide an immediate jolt to the economy. They promised us that it would keep the unemployment rate under 8 percent. They promised it would create jobs in every State in the Nation.

Today, the unemployment rate is not 8 percent. It is 9.8 percent and rising, for the numbers we will hear tomorrow, to 9.9 percent in all likelihood. Forty-nine of 50 States have lost jobs.

The two areas of manufacturing and construction, where we were promised the greatest rate of job creation, have actually seen the greatest rate of job loss. In fact, nearly 3 million jobs have been lost since the stimulus took effect.

We are not simply in, as the White House would say, a jobless recovery. We are in a ''job loss'' recovery. We continue to shed hundreds of thousands of workers every month, 175,000 in the past month; and unfortunately, the stimulus has lost all credibility as to job creation.

We hear each day reports of wildly exaggerated jobs claims. The Associated Press did a revealing story that shows that in some cases contractors exaggerated their job numbers by 10 times. In other cases they counted the same job four times. In many cases the money didn't come from the stimulus at all.

This morning, a Dallas Morning News investigation showed that in Texas, one out of every four jobs related to education was a part-time summer job. In one community, an organization claimed 450 jobs were created with stimulus money of $26,000. In one case, again, the money didn't even come from stimulus money. And in Beaumont, they are paying for child care for people out of stimulus dollars.

Unfortunately, the claim that the stimulus has created millions of new jobs, created or saved them, simply isn't backed up. And, in fact, the majority of economists today say it has had little impact on the stimulus, and a second stimulus down the road isn't needed or, in fact, will be damaging.

I think what is critical, too, is a lot of businesses are holding off creating those new jobs, especially small businesses, because of Washington. They watch what we are doing and considering on health care. It will drive up their premiums. Cap-and-trade will drive up their energy costs. New energy taxes will offshore American energy jobs. They look at new financial regulations, tax increases on everything from income to capital to dividends to international investment, and they are saying we are not going to create jobs. They are not going to risk jobs in this environment.

It is hard enough to predict the market itself, much less to predict the market and Congress together. And when they look at the bill that this Congress will vote on this weekend on health care, they see tax increases on small businesses that will cost us about 4 million jobs, mandates on small businesses that will force their workers out of their own health care system, and a job trap that actually punishes small businesses. When they hire between 11 and 25 workers, actually in this bill Congress punishes them, and punishes them more if they raise the wages of those workers.

So, there is a lot more that needs to be done on the economy. This bill is no substitute for a good job. It is a step forward in housing and for business retention. For that, there is bipartisan support, and I do appreciate Chairman MCDERMOTT's work on trying to bring a bill forward to this floor that many can support.

I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Washington has 45 seconds remaining.

Mr. MCDERMOTT. Mr. Speaker, I appreciate Mr. BRADY's work on bringing this bill to the floor, but I would say that in 1935 there was no unemployment insurance, there was no welfare, there were no jobs, and the Federal Government stepped in and acted to change all of that.

Now, we clearly need to stimulate the economy; and if we don't stimulate the economy, we will continue to have businesses sitting back waiting forever and watching their health care costs go out of sight.

The bill tomorrow on health care is really to help businesses get control over one cost item in their budget, and in my view, that is the kind of thing we should be doing to help create more jobs. If we sit here, we can build this bridge of unemployment insurance, but it is a bridge to nowhere if the economy does not start to turn around, and that means dealing with the things that are destroying this economy.

The health care costs of every single business are rising totally out of control, and you can't expect them to invest if we haven't done something about getting control of health care costs.

So this is only one part of the issue. We have many other issues we are going to have to deal with on the floor, but I am grateful today for your help in passing this piece of it.

Ms. RICHARDSON. Mr. Speaker, I rise today in strong support of the Senate amendments to H.R. 3548, the ''Unemployment Compensation Extension Act of 2009,'' because they will provide much-needed relief to the millions of unemployed American workers who are struggling to find jobs today and to others who are working to buy their first home.

With the passage of this bill, Congress will provide up to 14 additional weeks of desperately needed unemployment benefits to workers who are about to exhaust their unemployment benefits, directing much-needed help to the unemployed who live in states where unemployment rates are highest.

California has the 4th highest unemployment rate in the Nation and in terms of my district the numbers are staggering:

Carson—12.6 percent
Compton—20.9 percent
Long Beach—13.7 percent
Signal Hill—9.4 percent

Mr. Speaker, although job losses have begun to decline more recently, unemployment is still too high, and the American people need relief now. With the national unemployment rate at 9.7 percent, we must act now. Over 1 million people will exhaust their benefits by the end of December if we do not act.

In addition to providing relief to the unemployed, H.R. 3548 will help stimulate the economy. Extending unemployment benefits is one of the most cost-effective and fast-acting ways to stimulate the economy because the money

is spent quickly. Every $1 spent on unemployment benefits generates $1.63 in new economic activity.

The new Senate amendments to this bill will do even more to breathe life into our economy. With the inclusion of these amendments, this crucial legislation will strengthen our domestic housing market by extending the $8,000 first-time homebuyer tax credit through April, 2010. These amendments will also expand eligibility for the homebuyer credit so more families qualify. Specifically, the bill will establish a $6,500 tax credit for families that have lived in their current home for five or more consecutive years and who are looking to purchase and move into a new home. By expanding the tax credit to include more than just first-time homebuyers, this bill will further stimulate the economy and help us to continue to fully recover from the recession.

I strongly support these amendments because, for many people in my district, the extended and expanded tax credit will allow them to realize the American Dream of owning a home. If passed, this bill will also provide housing tax relief for military families that have sacrificed so much to defend our great nation.

Mr. Speaker, I urge my colleagues to support this necessary and timely legislation because it provides relief to unemployed Americans when they need it the most and it extends and expands the first-time homebuyer tax credit. If we do not pass this bill, we will not only face a financial crisis but a moral deficit in this country as well. We cannot allow that to happen. I urge all members to vote "aye" on the Senate amendments to H.R. 3548, the Unemployment Compensation Extension Act of 2009.

Mr. VAN HOLLEN. Mr. Speaker, I rise in strong support of this bipartisan legislation to extend unemployment insurance benefits, extend and expand the homebuyer tax credit, and provide needed liquidity to businesses struggling to stay afloat in this difficult economy.

Millions of Americans remain unemployed through no fault of their own and are struggling to make ends meet. If Congress and the President had not taken action with the Recovery Act, millions more would be unemployed. We now know that the Recovery Act has saved or created at least 640,000 jobs across the country and 6,700 jobs in Maryland.

We are seeing signs of economic recovery and progress. The housing and stock markets are rebounding and the gross domestic product increased for the first time last month. To help sustain the rebound in the housing market, I am pleased that the bill will extend the first-time homebuyer tax credit as well as expand the credit to those homeowners who have been in their current residence for at least the last five years. Additionally, this legislation will provide needed liquidity to cash-strapped businesses by giving companies a one-time opportunity to carry back their operating losses for five years in order to further support our economic recovery.

Mr. Speaker, much work remains to be done. Protecting the middle class, rebuilding our economy, and providing job growth remains our top priority. I urge my colleagues to support this much-needed legislation.

Mr. CONYERS. Mr. Speaker, I rise today in strong support of H.R. 3548, which extends unemployment benefits to scores of Americans who are out of work due to the severe downturn in the economy. The bill will also continue to extend the First Time Home Buyer Tax Credit though April 30, 2010.

The $8,000 First Time Home Buyer Tax Credit program has allowed approximately 350,000 hard working Americans to achieve the dream of home ownership this year. Given that this nation is still struggling, providing American families with an $8,000 homebuyer tax credit will stabilize the housing market and stimulate the economy. The bill will also provide a $6,500 homebuyer credit to current homeowners who purchase another home.

Furthermore, providing an extension of the First Time Home Buyer Tax Credit will also help further encourage job growth at a time when it is desperately needed. With the purchase of a home, other jobs are created in various sectors. This includes construction, plumbing, home appliances, and numerous other jobs that are the result of expanding affordable housing. There is also evidence that suggests that neighborhoods are safer and become more stable when there are high rates of home ownership in the community.

This legislation also extends unemployment benefits to millions of Americans who otherwise would lose much needed and deserved benefits. In this sluggish economy, American workers are finding it more difficult to find good jobs and this benefit will fill this gap.

This bill could not be any timelier. It extends a provision that allows states with high unemployment, like Michigan, to provide a total of twenty weeks of extended benefits.

Mr. Speaker, I believe today's legislation will further help the workers of Michigan through these difficult times. I rise in strong support of H.R. 3548 and urge my colleagues to support today's legislation.

Mr. BLUMENAUER. Mr. Speaker, Oregon has one of the highest unemployment rates in the country at 11.5%, which means that hundreds of thousands of Oregonians are without work. In the Portland region, roughly 140,000 residents are out of work.

The average weekly unemployment insurance benefit in Oregon is $310. Each week, I receive letters indicating how much of a lifeline these unemployment benefits are. Unfortunately, many families are nearing the end of these benefits.

Today, I voted to provide stability to American families hit hardest by the recession by extending unemployment benefits. The legislation will provide families with at least 14 weeks of additional benefits, and six more weeks to those living in the 27 states with the highest unemployment rates—states including Oregon. This means over 11,000 Oregonians will retain their insurance for an additional 20 weeks.

Also, this bill does not add to the deficit. Rather, it is paid for by extending a federal unemployment tax that has been in place for more than 30 years.

It is important to recognize that the losses from unemployment will last long after these workers—and the millions like them around the country—have again found work. Income losses for workers who are let go in a recession can persist for as long as two decades, and in some cases longer.

The economic crisis gripping the United States is one of the greatest economic challenges that the country has faced. It can be squarely traced to the ideology of economic deregulation, leaving the government with few tools to address the reckless actions of many financial institutions until it was too late.

It is time to rebuild the foundations of our economy and improve our fiscal fitness. I look forward to working with my colleagues to create a nation where every family is safe, healthy, and economically secure.

Ms. BORDALLO. Mr. Speaker, I rise today in support of H.R. 3548, the Worker, Homeownership, and Business Assistance Act of 2009. The bill contains an important provision extending and expanding the successful First-Time Homebuyer Tax Credit to homes purchased through April 30, 2010. Under current law, the tax credit would expire on December 1, 2009, and would not apply to homes closed on or after that date. The extension allows for homebuyers to claim the credit if they enter into a binding contract before May 1, 2010 and close within 60 days of that date. In addition to the extension of the First-Time Homebuyer Tax Credit worth up to $8,000, the legislation expands the credit to homebuyers who have been in their current residence for at least the past five years. The expanded credit is worth up to $6,500.

There is strong evidence that suggests this program has greatly aided in stabilizing our nation's housing market, and it has also helped to improve Guam's housing market. The extension of the First-Time Homebuyer Tax Credit will allow this program to complete its designed purpose and provide a longer term stimulus to the recovering, but still lagging housing market. This legislation further expands the tax credit to current homeowners who have been in their homes for at least five years but wish to move to a new residence. This expansion will provide an additional incentive for responsible homeowners to participate in this program. The tax credit will further stimulate the housing market to a point where more potential buyers will enter the market, in turn helping to stabilize and eventually increase housing prices. The passage of this legislation marks an important step toward the full recovery of our nation's housing market and our economy overall.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RANGEL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3548.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MCDERMOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

WORLD WAR I MEMORIAL AND CENTENNIAL ACT OF 2009

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1849) to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World

War I, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1849

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 ''World War I Memorial and Centennial Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 4,000,000 men and women from the United States served in uniform in the defense of liberty during World War I, among them two future presidents, Harry S. Truman and Dwight D. Eisenhower.

(2) 2,000,000 individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas.

(3) The United States suffered 375,000 casualties during World War I.

(4) The events of 1914 through 1918 shaped the world, our country, and the lives of millions of people in countless ways.

(5) The centennial of World War I offers an opportunity for people in the United States to learn about the sacrifices of their predecessors.

(6) Commemorative efforts allow people in the United States to gain a historical understanding of the type of conflicts that cause countries to go to war and how those conflicts are resolved.

(7) Kansas City is home to the Liberty Memorial and America's National World War I Museum (as so recognized in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375)).

(8) America's National World War I Museum seeks—

(A) to preserve the history of World War I; and

(B) to educate and enlighten people about this significant event, the consequences of which are still with us.

(9) Kansas City is home to the national headquarters for the Veterans of Foreign Wars.

(10) Missouri is the home State of General John Joseph Pershing, who commanded the American Expeditionary Forces in Europe during World War I.

(11) The Kansas City area is the home of the Harry S. Truman Presidential Library and Museum.

(12) The Dwight David Eisenhower Presidential Library and Museum is located close to Kansas City in the neighboring State of Kansas.

(13) There is no nationally recognized memorial honoring the service of Americans who served in World War I.

(14) In 1919, the people of Kansas City, Missouri, expressed an outpouring of support and raised more than $2,000,000 in two weeks for a memorial to the service of Americans in World War I. That fundraising was an accomplishment unparalleled by any other city in the United States irrespective of population and reflected the passion of public opinion about World War I, which had so recently ended.

(15) Following the drive, a national architectural competition was held by the American Institute of Architects for designs for a memorial to the service of Americans in World War I, and the competition yielded a design by architect H. Van Buren Magonigle.

(16) On November 1, 1921, more than 100,000 people witnessed the dedication of the site for the Liberty Memorial in Kansas City, Missouri. That dedication marked the only time in history that the five allied military leaders; Lieutenant General Baron Jacques of Belgium, General Armando Diaz of Italy, Marshal Ferdinand Foch of France, General John J. Pershing of the United States, and Admiral Lord Earl Beatty of Great Britain, were together at one place.

(17) General Pershing noted at the November 1, 1921, dedication that ''[t]he people of Kansas City, Missouri, are deeply proud of the beautiful memorial, erected in tribute to the patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's armed forces during the World War. It symbolized their grateful appreciation of duty well done, an appreciation which I share, because I know so well how richly it is merited''.

(18) During an Armistice Day ceremony in 1924, President Calvin Coolidge marked the beginning of a three-year construction project for the Liberty Memorial by the laying of the cornerstone of the memorial.

(19) The 217-foot Liberty Memorial Tower has an inscription that reads ''In Honor of Those Who Served in the World War in Defense of Liberty and Our Country'' as well as four stone ''Guardian Spirits'' representing courage, honor, patriotism, and sacrifice, which rise above the observation deck, making the Liberty Memorial a noble tribute to all who served in World War I.

(20) During a rededication for the Liberty Memorial in 1961, World War I veterans and former Presidents Harry S. Truman and Dwight D. Eisenhower recognized the memorial as a constant reminder of the sacrifices during World War I and the progress that followed.

(21) The 106th Congress recognized the Liberty Memorial as a national symbol of World War I.

(22) The National World War I Museum is the only public museum in the United States specifically dedicated to the history of World War I.

(23) The National World War I Museum is known throughout the world as a major center of World War I remembrance.

SEC. 3. DESIGNATION OF THE LIBERTY MEMORIAL AT THE NATIONAL WORLD WAR I MUSEUM IN KANSAS CITY, MISSOURI, AS THE NATIONAL WORLD WAR I MEMORIAL.

The Liberty Memorial at the National World War I Museum in Kansas City, Missouri, is hereby designated as the ''National World War I Memorial''. No Federal funds may be used for the annual operation or maintenance of such Memorial.

SEC. 4. COMMISSION ON THE COMMEMORATION OF THE CENTENNIAL OF WORLD WAR I.

(a) ESTABLISHMENT.—There is established a commission to be known as the World War I Centennial Commission (in this Act referred to as the ''Commission'').

(b) PURPOSE.—The purpose of the Commission is to ensure a suitable observance of the centennial of World War I that promotes the values of honor, courage, patriotism, and sacrifice, in keeping with the representation of these values through the four Guardian Spirits sculpted on the Liberty Memorial Monument at America's National World War I Museum.

(c) DUTIES.—The Commission shall have the following duties:

(1) To plan, develop, and execute programs, projects, and activities to commemorate the centennial of World War I.

(2) To encourage private organizations and State and local governments to organize and participate in activities commemorating the centennial of World War I.

(3) To facilitate and coordinate activities throughout the United States related to the centennial of World War I.

(4) To serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of World War I.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 24 members as follows:

(A) Four members appointed by the Speaker of the House of Representatives.

(B) Three members appointed by the minority leader of the House of Representatives.

(C) Four members appointed by the Senate majority leader.

(D) Three members appointed by the Senate minority leader.

(E) Seven members who are broadly representative of the people of the United States (including members of the armed services and veterans), appointed by the President.

(F) The executive director of the Veterans of Foreign Wars of the United States (or the director's delegate).

(G) The executive director of the American Legion (or the director's delegate).

(H) The president of the Liberty Memorial Association, the nonprofit entity responsible for the management of America's National World War I Museum (or the president's delegate).

(2) EX OFFICIO MEMBERS.—The Archivist of the United States and the Secretary of the Smithsonian Institution shall serve in an ex officio capacity on the Commission to provide advice and information to the Commission.

(3) CONTINUATION OF MEMBERSHIP.—If a member of the Commission under subparagraph (F), (G), or (H) of paragraph (1) ceases to hold a position named in such subparagraph, that member must resign from the Commission as of the date that the member ceases to hold that position.

(4) TERMS.—Each member shall be appointed for the life of the Commission.

(5) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act.

(6) VACANCIES.—A vacancy on the Commission shall—

(A) not affect the powers of the Commission; and

(B) be filled in the manner in which the original appointment was made.

(7) PAY.—Members shall not receive compensation for the performance of their duties on behalf of the Commission.

(8) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with the applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(9) QUORUM.—A majority of members of the Commission plus one shall constitute a quorum, but a lesser number may hold hearings.

(10) CHAIRPERSON; VICE CHAIRPERSON.—The Commission shall elect the Chairperson and Vice Chairperson of the Commission by a majority vote of the members of the Commission.

(11) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson, except that the first meeting shall be held before the end of the 120-day period beginning on the effective date of this Act.

(B) LOCATION.—The Commission shall hold the first meeting at America's National World War I Museum in Kansas City, Missouri, and thereafter shall hold at least one meeting per year at such location.

(e) DIRECTOR AND ADDITIONAL PERSONNEL OF THE COMMISSION; EXPERTS AND CONSULTANTS.—

(1) DIRECTOR AND STAFF.—

(A) APPOINTMENT.—The Chairperson of the Commission shall, in consultation with the members of the Commission, appoint an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(B) PAY.—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for the executive director and other staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(C) WORK LOCATION.—If the city government for Kansas City, Missouri, and the nonprofit organization which administers America's National World War I Museum make space available, the executive director and any additional personnel appointed under subparagraph (A) shall work in the building that houses that museum.

(2) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) POWERS OF THE COMMISSION.—

(1) HEARINGS AND SESSIONS.—For the purpose of carrying out this Act, the Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—If authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission shall secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) GIFTS, BEQUESTS, AND DEVISES.—

(A) ACCEPTANCE BY COMMISSION.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(B) DEPOSIT AND AVAILABILITY.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(7) CONTRACT AUTHORITY.—The Commission is authorized to procure supplies, services, and property and to make or enter in contracts, leases, or other legal agreements; except that any contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of termination of the Commission.

(g) REPORTS.—

(1) PERIODIC REPORT.—Beginning not later than the last day of the 3-month period beginning on the effective date of this Act, and the last day of each 3-month period thereafter, the Commission shall submit to Congress and the President a report on the activities and plans of the Commission.

(2) ANNUAL REPORTS.—The Commission shall submit to the President and Congress annual reports on the revenue and expenditures of the Commission, including a list of each gift, bequest, or devise to the Commission with a value of more than $250, together with the identity of the donor of each gift, bequest, or devise.

(3) RECOMMENDATIONS.—Not later than 2 years after the effective date of this Act, the Commission shall submit to Congress and the President a report containing specific recommendations for commemorating the centennial of World War I and coordinating related activities.

(h) FEDERAL ADVISORY COMMITTEE ACT WAIVER.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), relating to the termination of advisory committees, shall not apply to the Commission.

(i) AUTHORIZATION OF FUNDS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Commission to carry out this Act $500,000 for each of fiscal years 2010 through 2019.

(2) AVAILABILITY.—Amounts made available under this subsection shall remain available until the termination of the Commission as described in subsection (k).

(j) ANNUAL AUDIT.—For any fiscal year for which the Commission receives an appropriation of funds, the Inspector General of the Department of the Interior shall perform an audit of the Commission, shall make the results of any audit performed available to the public, and shall transmit such results to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(k) TERMINATION.—The Commission shall terminate on the earlier of the date that is 30 days after the activities honoring the centennial observation of World War I are carried out, or July 28, 2019.

(l) EFFECTIVE DATE.—This section shall take effect on January 1, 2010.

□ 1330

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the author of this legislation, the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, the First World War ended with an armistice on November 11, 1918. The people of Missouri's largest city began to think about what they could do to memorialize the men and women who had sacrificed in World War I. And so in November of 1918, community leaders came together and raised $2.5 million in 10 days. Now if you recalculate the $2.5 million to inflation, it totals $30 million in 10 days.

The memorial was opened on November 1, 1921, to a tumultuous crowd of 200,000 people, including General John J. Pershing, and this photo shows a portion of the 200,000 people who came and listened to the five Allied leaders who were together only once in history at the dedication of the Liberty Memorial in 1921.

Harry Truman played a pivotal role in this because there was a rededication in 1961 with 40,000 people showing up to join Harry Truman and Dwight Eisenhower as they rededicated the memorial.

This was 1921. Let me show you a picture of the memorial today.

When I was elected mayor of Kansas City in 1991, the Liberty Memorial was in disrepair and so I came to Washington, met with the head of the National Park Service and asked if they could help. He said what National Park Service directors should say, We don't have any money to try to rebuild the Liberty Memorial and since we don't have a World War I memorial and there is no space on the mall, we hope something else can transpire.

So as mayor, I went out for a vote with a half cent sales tax which the voters approved, and we then repaired the World War I monument, and this is it with part of the downtown skyline in the background. Not only did we rebuild the World War I monument, but also the museum at the bottom. This is an actual photograph.

Now the sales tax was a point of great pride because we were trying to show the National Park Service that the people of Kansas City would, in fact, take care of this. This is the newspaper clipping, the front page on the day after the tax, ''Voters Endorse Higher Sales Tax to Fix Landmark,'' and it shows the map which is every part of the city approved this tax in order to maintain the Liberty Memorial.

The Liberty Memorial is a special place in Kansas City, Missouri, and people come there from all over the Nation. In fact, 3 years ago at the annual Veterans Day ceremony, the oldest living veteran from World War I, Mr. Buckles, at 106 years of age, actually came to the memorial, sat beside me in a wheelchair and wept.

Here is a photograph of the Liberty Memorial just 15 months ago that shows me standing in front of 75,000 people, and then President Barack Obama, taking advantage of the crowd I drew, standing also in the background to speak to 75,000 just 15 months ago.

Mr. Speaker, this legislation is supported by over 101 Members of Congress. It is bipartisan. All nine Members of the Missouri delegation support

it. A part of Kansas City is in the district of Congressman SAM GRAVES who has been an ardent supporter of this.

I yield first to the gentleman from Missouri (Mr. SKELTON) whose father was there at the beginning of this landmark.

Mr. SKELTON. I certainly thank the gentleman from Missouri for yielding, and I compliment him on this effort today which I fully support, as well as for his successful effort when he was mayor of Kansas City.

The Liberty Memorial is not only a landmark, it is a museum that is like no other museum in our country. It reflects that war, the war to end all wars in which America was engaged so deeply. And this memorial has a special meaning for me, Mr. Speaker, since my father served in the Navy during that war. If you go into the memorial, you will see his picture in his pancake hat with USS *Missouri* emblazoned on the front with the ribbon down the back. He was so proud of his service in that war.

Those folks are gone now, but this serves as a memorial to them, and more than that, and it serves as a museum like none other. It is good for people interested in the art of warfare, it is good for people who understand and enjoy history to go there and learn. It is a special place for all those in uniform to reflect upon what America did in yesteryear.

This is a wonderful undertaking. I am so proud of the gentleman from Missouri (Mr. CLEAVER) for this resolution. I compliment him and fully support it and hope it has a unanimous vote.

Mr. BILBRAY. Mr. Speaker, I would like to yield such time as he may consume to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, I rise today in support of H.R. 1849, the World War I Memorial and Centennial Act of 2009, and I want to thank my friend and Missouri colleague, Congressman EMANUEL CLEAVER, for introducing this legislation. I would very much like to echo his remarks. He has been very active in this process, the work he has done at the memorial in Kansas City, and I am very proud to call him a good friend.

As Mr. CLEAVER has already mentioned, H.R. 1849 is a fitting recognition and tribute to all U.S. veterans who served in World War I, at home and abroad. This bill designates the Liberty Memorial, the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial. To be clear, there is no nationally recognized memorial honoring the service of Americans who served in World War I. H.R. 1849 also establishes a World War I Centennial Commission to ensure suitable observance of the centennial of World War I which is fast approaching.

Again, I thank Congressman CLEAVER for his outstanding work on this important legislation. I would strongly urge its adoption. Thanks for letting me be a part of it.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to Mr. SKELTON.

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I include for the record a letter from the Department Commander and Department Adjutant of the Department of Missouri, The American Legion, as well as an American Legion Department of Missouri resolution to designate the Liberty Memorial of Kansas City at the National World War I Museum as the National World War I Memorial.

THE AMERICAN LEGION,
DEPARTMENT OF MISSOURI, INC.,
Jefferson City, MO, October 7, 2009.

Representative IKE SKELTON,
Rayburn Office Bldg.,
Washington, DC.

DEAR REPRESENTATIVE SKELTON: On Behalf of the 54,000 Legionnaires of The American Legion Department of Missouri, we would like to take this opportunity to thank you for your service to our Country and to the citizens of the Great State of Missouri. Recently during our 91st Annual Department Convention, held in Jefferson City, Missouri, we adopted Missouri Resolution Three, which urges the Congress of the United States to designate the Liberty Memorial, at the National World War I Museum in Kansas City, Missouri, as ''The National World War I Memorial.'' I have attached a copy of said resolution.

The Liberty Memorial site was dedicated in November of 1921 and marks the only time in history that five Allied Military Leaders were present to honor the more that 4,000,000 men and women that served during World War I. General of the Armies John J. Pershing, a native of Missouri, noted on that day ''the people of Kansas City, Missouri are deeply proud of this beautiful memorial, erected in Tribute to the Patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's Armed Forces during the World War. It Symbolized their grateful appreciation of Duty Well Done, and appreciation, which I share, because I know so well how richly it is merited.''

The Memorial has been and still remains a proud part of the patriotic heritage of, not only the people of Missouri, but of the United States of America and should be designated as ''The National World War I Memorial''.

Thank you for your consideration and continued support.

Sincerely,

VICTOR J. STRAGLIATI,
Department Commander.
WADE F. PROSSER,
Department Adjutant.

RESOLUTION

Subject: Designate Liberty Memorial, Kansas City, Missouri at the National World War I Museum as the National World War I Memorial.

Whereas more than 4,000,000 American served in World War I, and

Whereas there is no nationally recognized Memorial honoring the Service of those over 4,000,000 American, and

Whereas in 1919 (90 years ago since this is 2009) the people of Kansas City, Missouri, expressed an outpouring of support and raised more than $2,000,000 in two (2) weeks for a Memorial to the service of American who served in World War I. This fund was an accomplishment Unparalleled by any other city in the United States Irrespective of population and reflected the passion of Public opinion about World War I, which had so recently ended, and

Whereas following the drive, a national architectural competition was held by the American Institute of Architects for designs for a memorial to the service of Americans in World War I, and the competition yielded a design by Architect H. Van Buren Magonigle, and

Whereas on November 1, 1921, more than 100,000 people witnessed the dedication of the site for the Liberty Memorial in Kansas City, Missouri, and

Whereas the dedication of the site on November 1, 1921 marked the only time in history that the five (5) allied Military Leaders present, Lieutenant General Baron Jacques of Belgium, General Armando Diaz of Italy, Marshal Ferdinand Foch of France, Admiral Lord Earl Beatty of Great Britain, and General of the Armies John J. Pershing of the United States of America, were together at one place, and

Whereas General of the Armies John J. Pershing, a native of Missouri and the Commander of the American Expeditionary Forces in World War I, noted at the November 1, 1921 Dedication that ''the people of Kansas City, Missouri are deeply proud of the beautiful memorial, erected in Tribute to the patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's armed forces during the World War. It symbolized their grateful appreciation of duty well done, and appreciation which I share, because I know so well how richly it is merited'', and

Whereas during an Armistice Day ceremony in 1924, President Calvin Coolidge marked the beginning of a three year construction project for the Liberty Memorial by the Laying of the cornerstone, and

Whereas the 217 foot Liberty Memorial Tower has an inscription that reads, ''In honor of Those Who Served in the World War in Defense of Liberty and Our Country'' as well as Four (4) stone ''Guardian Spirits'' representing Courage, Honors, Patriotism, and Sacrifices, which rise above the Observation deck, making the Liberty Memorial a noble Tribute to all who served in World War I, and

Whereas during a rededication of the Liberty Memorial in 1961, World War 1 Veterans and former Presidents Harry S. Truman and Dwight D. Eisenhower recognized the memorial as a constant reminder of the sacrifices during World War I and the progress that followed, and

Whereas the 106th Congress recognized the Liberty Memorial as a National Symbol of World War I, and

Whereas the 108th Congress designated that the museum at the base of The Liberty Memorial as ''American's National World War I Museum'', and

Whereas the American's National World War I Museum is the only Public museum in the United States specifically Dedicated to the History of World War I, and

Whereas the National World War I Museum is known throughout the World as a major center of World War I remembrance, now Therefore, be it

Resolved: by The American Legion Department of Missouri in regular Convention assembled in Jefferson City, Missouri on July 16, 17, 18, and 19, That The American Legion Department of Missouri urges The Congress of The United States of America to designate The Liberty Memorial, Kansas City, Missouri at the National World War I Museum in

Kansas City, Missouri as the ''NATIONAL WORLD WAR I MEMORIAL''.

VICTOR J. STRAGLIATI,
Department Commander, Department of Missouri, The American Legion.

WADE F. PROSSER,
Department Adjutant, Department of Missouri, The American Legion.

Mr. BILBRAY. Mr. Speaker, I would like to yield such time as he may consume to the distinguished gentleman once removed from Missouri, but from California now, Mr. DREIER.

Mr. DREIER. Mr. Speaker, I thank my colleague from San Diego for yielding, and I am very privileged and honored to join here with my fellow natives of the Show Me State. And I want to congratulate my former mayor from Kansas City and now distinguished colleague here in the House for introducing this resolution.

First and foremost, this is about recognizing those tens of thousands of Americans who lost their lives in the First World War. It was a very challenging time for the entire world when we look at the two alliances that existed at that time. It is often forgotten when we talk about the Great World War being the Second World War.

The Liberty Memorial is very important to me personally, as the gentleman from Kansas City and I have discussed, Mr. Speaker. My great-grandfather was on the city council of Kansas City, Charles O. LaRue. He was one of the individuals who played a role in the construction of the Liberty Memorial itself when it was built in 1921. In 1921, he was a member of the city council.

I have memories of having first visited the Liberty Memorial when I was a very young child. In fact, I remember very vividly when I was 4 or 5 years old and President Eisenhower came and delivered a spectacular address at the foot of the Liberty Memorial in Kansas City, Missouri.

Recently, I had a chance to be there and see the dramatic expansion of this memorial. As one walks in and see the poppies on display that you walk over, it is a very moving experience when you think about the men who faced the conflict in World War I.

I just want to say that I have told my friend from Kansas City that I anxiously look forward, with my great-grandfather's name being inscribed at the base of the Liberty Memorial, to be able to participate in any celebration or ceremony they have. He has invited me to be there, and I will join him and it will be a great honor. I am privileged to be invited, and I am proud to be a cosponsor of Mr. CLEAVER's resolution.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I may consume.

Too quickly we forget those who have served all over the world. Sadly, we even forget the magnitude of the wars they fought. So often in the United States, we think about Europe in World War I and service there, but this truly was a world war. It was a war that transformed not only Europe, but Asia and Africa. We forget about that. We forget that the wars were not just fought in Flanders Field, but fought in villages and on three continents. And we not only saw the battles of Americans in the skies of France, but we also saw, like my mother's side of the family, Australians fighting in Turkey; the battles in Saudi Arabia; the concepts and the battles in Africa. These are things that we don't read about and think about, but it truly was a world conflict involving millions and millions of men and women around the world.

This memorial in the heart of America is so appropriate for us to stop and think about the fact that although a lot of Americans had second thoughts and misgivings about our venturing overseas, the first major venture that we had seen in that century following the last venture, which was actually very close to our neighborhoods.

□ 1345

So I think it is quite appropriate that today, where America finds itself today involved around the world, that we've got to remember that we didn't start this. We inherited the fact that World War I was truly when America stepped forward, and not just declaring ourselves a world power, but one that would stand up and fight for freedom whenever and wherever it was threatened.

Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, to close, let me just, first of all, commend all of our colleagues with lineage and heritage to the great State of Missouri. Let me also commend Representative CLEAVER for his introduction of this legislation.

And I couldn't end without paying special tribute to the family of Representative SKELTON for the tremendous service that they have provided to this country, both in the military, and of course Chairman SKELTON here in this House of Representatives.

As we move towards Veterans Day, where we will honor and pay tribute to all of our veterans because they have given all of us the opportunity to live in a free and democratic society—and I don't think there is anything more important than that—I ask all of my colleagues to join me in supporting H.R. 1849.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 1849, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CORPORAL JOSEPH A. TOMCI POST OFFICE BUILDING

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3788) to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the ''Corporal Joseph A. Tomci Post Office Building''.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORPORAL JOSEPH A. TOMCI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, shall be known and designated as the ''Corporal Joseph A. Tomci Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Corporal Joseph A. Tomci Post Office Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the House subcommittee with jurisdiction over the United States Postal Service, I am very proud to present H.R. 3788 for consideration. This measure will designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the ''Corporal Joseph A. Tomci Post Office Building.''

H.R. 3788 was introduced by my colleague Representative STEVEN LATOURETTE of Ohio on October 13, 2009, and favorably reported out of the Oversight Committee by unanimous consent on October 29, 2009. Additionally, this legislation enjoys the overwhelming support of the Ohio House delegation.

After graduating from Stow-Munroe Falls High School in 2003, Corporal Tomci joined the U.S. Marine Corps and was assigned to the 3rd Battalion, 9th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force out of Camp Lejeune, North Carolina.

Tragically, on August 2, 2006, while conducting combat operations during

his second tour in support of Operation Iraqi Freedom, Corporal Tomci was killed in a roadside bomb in al Anbar province, Iraq. He was only 21 years old at the time.

Although Corporal Tomci is no longer with us, his spirit will endure in the memory of his mother, Gayle, his stepfather, Phil, his friends, and all those who were fortunate enough to know this brave young man. In fact, every year since his death, a group of Corporal Tomci's friends gather together in Silver Springs Park in Stow, Ohio, to remember the life of their friend and hero. Affectionately called ''Joe Tom Day'' after Corporal Tomci's nickname, about 150 joined in this year's commemoration and wore black T-shirts with Corporal Tomci's quote, ''You guys will be telling your kids about me,'' on their backs.

And so, Mr. Speaker, let us, as a body, take this opportunity to recognize the life of Corporal Tomci, which stands as a testament to the bravery and dedication of the heroic men and women who serve our great Nation.

I urge all of our Members to join in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, at this time, I would like to yield as much time as he may consume to the distinguished gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I thank my friend from California for yielding.

I want to thank the Chair and ranking member of the Government Reform and Oversight Committee for moving this bill in such an expedited manner. I want to thank my friend and colleague from Illinois (Mr. DAVIS) and from California (Mr. BILBRAY) for bringing this bill to the floor today.

I am proud to be the lead sponsor of H.R. 3788. It is going to honor a marine and native of Stow, Ohio, who gave his life in the line of duty, Corporal Joseph A. Tomci, and I urge my colleagues to support the bill. This bill will name the post office at 3900 Darrow Road in Stow as the Corporal Joseph A. Tomci Post Office Building.

As has been mentioned, Joe Tomci, a graduate of Stow-Munroe Falls High School, was killed in a roadside bombing on August 2, 2006. It was his second tour of duty in Iraq, and he happened to be only 21.

While I didn't have the pleasure of knowing Joe Tomci when he was alive, I have been awed by the impact that he had on those who did have the privilege of knowing him, loving him, and calling him a friend. There were thousands of people, Mr. Speaker, at his funeral. And every year since his death, friends and family have gathered to remember Joe on the anniversary that he died.

There is also a tree planted at Fish Creek Elementary School. And you may think, well, maybe that's where Joe went to school, but the reason the tree is there is that Joe was a pen pal of the students for 2 years, and the students would chart Joe's progress in Iraq on a map to reflect his experiences.

Joe Tomci was a great son, a great friend, and a great leader. And I honestly can't think of many people at the age of 21 who have made such a mark on the world in such a short amount of time.

He loved his family and his friends, he loved serving his country, and he loved being a marine. He told his mother, Gayle, that he believed in what he was doing and that he believed that his service was a benefit to the world.

I've had the privilege, as most of our colleagues have, of travelling to Iraq to witness firsthand the important work of servicemen and -women like Joe and what they're doing every day, as well as the selfless sacrifices that they and their families make. Some, like Joe, have made the ultimate sacrifice, but their deaths have not been in vain.

Mr. Speaker, I appreciate the work of the committee in approving this legislation, and I urge my colleagues to support the bill.

Mr. DAVIS of Illinois. Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, my words on this quite appropriate bill would pale in comparison to the fine words from the gentleman from Ohio and the gentleman from Chicago. I think they said it quite well and eloquently, so at this time I think it's appropriate that I just urge all Members to support H.R. 3788.

I rise today in support of this bill designating the United States Postal Facility, located at 3900 Darrow Road in Stow, Ohio as the "Corporal Joseph A. Tomci Post Office Building."

A native of Ohio, Corporal Joseph Tomci was a "humble, determined and athletic" man. A football player and avid outdoorsman, Corporal Tomci graduated from Stow-Munroe Falls High School located in Stow, Ohio in 2003.

As a teenager he was determined to join the Marines. After the September 11th attacks, his decision was reinforced and he enlisted in the United States Marine Corps just a few months after graduating from high school. Corporal Tomci was inspired by his favorite quote "the only thing necessary for the triumph of evil is for good men to do nothing". He was assigned to the 2nd Marine Division, 3rd Battalion, 8th Marines, Lima Company based in Camp Lejeune and quickly rose to a leadership position. He was deployed three times—Haiti in 2004, Fallujah, Iraq in 2005, and Ramadi in 2006.

When on leave from Iraq, Corporal Tomci often told friends "I'm doing this so you guys don't have to." As a squad leader, Corporal Tomci had great concern for the 12 Marines under his command. He was especially conscious of training the soldiers who had just been deployed to Iraq, once telling his mother that now he knew what it felt like to be a parent.

Tragically, while serving his 3rd deployment in Ramadi, he was killed by a roadside bomb on August 2, 2006.

After his death, one of Corporal Tomci's friends put it best when he said Corporal Tomci was a patriot and "he was made to be a Marine."

I urge the passage of this bill in honor of an ambitious, caring, and dedicated American who sacrificed his life while serving his country.

Mr. BILBRAY. Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 3788.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

Concurring in the Senate amendment to H.R. 3548, by the yeas and nays;

H. Con. Res. 139, by the yeas and nays;

H. Res. 880, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendment to the bill, H.R. 3548, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RANGEL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3548.

The vote was taken by electronic device, and there were—yeas 403, nays 12, not voting 18, as follows:

[Roll No. 859]

YEAS—403

Abercrombie	Bachus	Berry
Ackerman	Baird	Biggert
Adler (NJ)	Baldwin	Bilbray
Akin	Barrett (SC)	Bilirakis
Alexander	Barrow	Bishop (GA)
Altmire	Bartlett	Bishop (NY)
Andrews	Barton (TX)	Bishop (UT)
Arcuri	Bean	Blackburn
Austria	Becerra	Blumenauer
Baca	Berkley	Blunt
Bachmann	Berman	Boccieri

Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Frelinghuysen
Fudge
Gallegly
Garamendi
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—12

Broun (GA)
Burgess
Flake
Franks (AZ)
Garrett (NJ)
Linder
McClintock
Paul
Price (GA)
Radanovich
Scalise
Shadegg

NOT VOTING—18

Aderholt
Brady (PA)
Braley (IA)
Capuano
Cole
Culberson
Davis (KY)
Harper
Herseth Sandlin
Honda
Murphy, Patrick
Nunes
Obey
Poe (TX)
Rogers (MI)
Sánchez, Linda T.
Sessions
Stupak

□ 1420

Messrs. FRANKS of Arizona and LINDER changed their vote from ''yea'' to ''nay.''

Ms. CLARKE changed her vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POE of Texas. Mr. Speaker, on rollcall No. 859, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. HARPER. Mr. Speaker, on rollcall No. 859, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ROGERS of Michigan. Mr. Speaker, on rollcall No. 859, I was unable to vote as I was in Michigan attending to a recent death in my family. Had I been present, I would have voted "yea."

Mr. OBEY. Mr. Speaker, on rollcall No. 859 I was involved in discussions with Wisconsin's Governor about upcoming health reform legislation and missed the vote. Had I been present, I would have voted "yea."

CONGRATULATING FIRST UNITED STATES AIR FORCE ACADEMY GRADUATION CLASS ON ITS 50TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the concurrent resolution, H. Con. Res. 139, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 139.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22, as follows:

[Roll No. 860]

YEAS—411

Abercrombie
Ackerman
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Dahlkemper
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)

Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—22

Aderholt
Boehner
Brady (PA)
Braley (IA)
Cantor
Capuano
Cole
Cummings
Davis (IL)
Davis (KY)
Deal (GA)
Gordon (TN)
Herseth Sandlin
Johnson, Sam
Kennedy
Langevin
Murphy, Patrick
Nunes
Pence
Rogers (MI)
Sánchez, Linda T.
Stupak

□ 1428

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING THE EFFORTS OF CAREER AND TECHNICAL COLLEGES

The SPEAKER pro tempore (Mr. SERRANO). The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 880, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 880, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. CONNOLLY of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 0, not voting 24, as follows:

[Roll No. 861]

AYES—409

Abercrombie
Ackerman
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—24

Aderholt
Baird
Boehner
Brady (PA)
Braley (IA)
Capuano
Cole
Connolly (VA)
Davis (KY)
Deal (GA)
Gutierrez
Herseth Sandlin
Hill
Johnson, Sam
Kennedy
Langevin
Lee (NY)
Murphy, Patrick
Nunes
Obey
Pence
Rogers (MI)
Sánchez, Linda T.
Stupak

□ 1437

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: ''Recognizing the efforts of postsecondary institutions offering career and technical education to educate and train workers for positions in high-demand industries.''.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COLE. Mr. Speaker, on today, Thursday, November 5, 2009, I was unavoidably detained and I missed a series of three votes. I missed rollcall Nos. 859, 860, and 861. Had I been present and voting, I would have voted as follows: Rollcall vote No. 859 "yea" (On Senate Amendments to H.R. 3548). Rollcall

vote No. 860 "yea" (On agreeing to H. Con. Res. 139). Rollcall vote No. 861 "aye" (On agreeing to H. Res. 880).

PERSONAL EXPLANATION

Ms. HERSETH SANDLIN. Mr. Speaker, I regret that I was unable to participate in three votes on the floor of the House of Representatives today because I was participating in a panel on public safety and housing as part of the White House Tribal Nations Conference.

The first vote was on the Senate Amendments to H.R. 3548—Unemployment Compensation Extension Act of 2009. Had I been present, I would have voted "yea" on that question.

The second vote was H. Con. Res. 139—congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation. Had I been present, I would have voted "yea" on that question.

The third vote was H. Res. 880—Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries. Had I been present, I would have voted "yea" on that question.

PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Mr. Speaker, I regret missing floor votes today, Thursday, November 5, 2009. If I was present, I would have voted: "yea" on rollcall 856, On Ordering the Previous Question on H. Res. 885, Providing for consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009; "yea" on rollcall 857, agreeing to H. Res. 885, Providing for consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009; "yea" on rollcall 858, agreeing to H. Res. 868, Honoring and recognizing the service and achievements of current and former female members of the Armed Forces; "yea" on rollcall 859, to suspend the rules and concur in the Senate amendment to H.R. 3547, the Worker, Homeownership, and Business Assistance Act; "yea" on rollcall 860, agreeing to H. Con. Res. 139, Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; "aye" on rollcall 861, agreeing to H. Res. 880, Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries.

PERSONAL EXPLANATION

Mr. DAVIS of Kentucky. Mr. Speaker, today, Thursday, November 5, 2009, I was unavoidably detained from a vote series.

Had I been present I would have voted: On rollcall No. 858—"yes"—H. Res. 868, Honoring and recognizing the service and achievements of current and former female members of the Armed Forces; on rollcall No. 859—"yes"—Senate Amendments to H.R. 3548, Unemployment Compensation Extension Act of 2009; on rollcall No. 860—"yes"—H. Con. Res. 139, Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation; on rollcall No. 861—"yes"—H. Res. 880, Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

JACK F. KEMP POST OFFICE BUILDING

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1211) to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JACK F. KEMP POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, shall be known and designated as the "Jack F. Kemp Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Jack F. Kemp Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. DAVIS).

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I am very proud to present S. 1211 for consideration. This measure would designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building."

S. 1211 was introduced July 9, 2009, by Senator CHUCK SCHUMER of New York and passed by the United States Senate by unanimous consent on September 4, 2009. The bill was then favorably reported out of the House Committee on Oversight and Government Reform by unanimous consent on October 29, 2009.

Mr. Speaker, S. 1211 will designate the postal facility at 60 School Street in Orchard Park, New York, as the Jack F. Kemp Post Office. Mr. Kemp launched his first political campaign in 1970 and ran for the congressional seat in upstate New York's 39th District. Mr. Kemp won his first election and proceeded to serve eight additional terms in Congress.

In addition to his tenure in Congress, Mr. Kemp's political career also includes his service as Secretary of Housing and Urban Development in the administration of President George Herbert Walker Bush from 1989 to 1993 and as the Republican Party's Vice Presidential candidate in 1996.

Mr. Speaker, regretfully, Jack Kemp passed away on May 2 of this year. In honor of his legacy of public service, Mr. Kemp was posthumously awarded the Presidential Medal of Freedom by President Barack Obama in 2009. Let us continue to honor this dedicated public servant through passage of this legislation to designate the School Street post office in his name.

I urge my colleagues to join me in supporting S. 1211 and reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of S. 1211, designating the United States Post Office at 60 School Street in Orchard Park, New York, as the Jack F. Kemp Post Office.

A former Congressman, Secretary of Housing and Urban Development, and, most importantly, a former quarterback for the San Diego Chargers, Jack Kemp will always be remembered in San Diego and around this country for his unwavering dedication to the ideals of conservative principles, a passion for economics, faith in helping poor people across the country, and for his eloquent quotes of Abraham Lincoln, Winston Churchill, or one of the influential citizens he met along his journey, such as Kimi Gray. Jack Kemp was truly an American original.

Through his years as a Congressman and as a Cabinet Secretary, Jack Kemp inspired us all to hold fast to our ideals. He was known and respected by people in both political parties and by people from all walks of life for his leadership and commitment to principles, no matter what the issue.

Jack Kemp spent the majority of his political career staunchly advocating tax cuts, promoting economic growth, and encouraging us all to recognize, as John Kennedy did, that a rising economic tide raises all boats. His devotion to supply-side economics saw its height when, due largely to his influence, it became a cornerstone in the

Reagan administration's economic policy. He believed in expanding and growing the economic pie, not just parceling up what was available at the time.

He was also deeply committed to minority rights. Throughout his life, Jack Kemp relentlessly urged the GOP to fight for and support minorities. He sincerely believed in the party of Abraham Lincoln as the party that should be leading all people in this country.

□ 1445

As Secretary of Housing and Urban Development, he was a forceful advocate for affordable housing for all Americans, especially in the inner cities.

Congressman Kemp was a role model because of his integrity and his passion, whether it be on the football field, in the House Chamber or in the executive branch, and it is appropriate today that we name this post office after him.

I reserve the remainder of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to Representative BRIAN HIGGINS of New York.

Mr. HIGGINS. I thank the gentleman for the time.

Mr. Speaker, I rise today in support of S. 1211, a bill to honor former Congressman Jack Kemp by naming a post office in Orchard Park, New York, in his memory.

Jack Kemp was born and raised in Los Angeles, and he did much of his important work here in Washington. But in his adopted home of western New York we consider him one of our own. We are especially proud of the contributions he made to our community, both on the football field as quarterback of the Buffalo Bills and in public service as our Representative in the United States Congress.

During his 7-year tenure as quarterback of the Bills, Jack was embraced by the western New York community. He led the Bills to back-to-back AFL championships in 1964 and in 1965, winning the league's Most Valuable Player award in 1965 as well. Today he still ranks third all time in Bills' record books for yards and touchdowns thrown.

Before he ever stood for public office, Jack's leadership skills were evident when his teammates named him captain of the San Diego Chargers in 1960, and after he was claimed by Buffalo, the Bills, in 1962. In a preview of the interest he would later take in matters of economic policy, he cofounded the AFL Players' Association and was elected its president five times.

After he retired from football, Jack ran for an open House seat in New York's 31st congressional district. He served nine terms in the House of Representatives, where many of my colleagues had the privilege to serve with him.

As a Member of the House, Congressman Kemp was a tireless advocate for job creation, particularly in urban areas like Buffalo. He helped promote the idea of using special tax incentives to encourage job creation and private investment in distressed communities. This is a cause that I try to advance on behalf of western New York today through my work on the House Ways and Means Committee, and I owe a great deal to the foundation and the groundwork that Jack laid in this area.

After leaving Congress, Jack went on to serve as Secretary of Housing and Urban Development in the administration of George H. W. Bush, where he continued to advocate for America's urban centers through promoting enterprise zones to attract investment to cities and by moving more Americans into homeownership.

Jack also famously joined the 1996 Presidential ticket of Senator Bob Dole. While I may not have agreed with much of the platform on which they ran, I, like all western New Yorkers, was proud that Jack represented our community so well on the national stage.

Jack Kemp passed away on May 2, 2009, at his home in Bethesda, Maryland. He was an accomplished politician, an outstanding athlete and a tireless public servant to this Nation. He will be, and already is, greatly missed.

Mr. Speaker, S. 1211 would name a post office in Orchard Park, New York—where the Buffalo Bills play—after Jack Kemp. I would like to thank Senator CHARLES SCHUMER and Senator KIRSTEN GILLIBRAND for proposing this fitting tribute in his honor, and I urge its passage.

Mr. BILBRAY. Mr. Speaker, I yield as much time as he may consume to the distinguished gentleman from New York (Mr. KING).

Mr. KING of New York. I thank the gentleman from California for yielding, and I am proud to rise in support of this legislation which will be naming a post office in honor of Jack Kemp.

As the Speaker well knows, Jack Kemp was a long-time Congressman from New York. Jack Kemp was a proud Republican who was always willing to reach across party lines. Jack Kemp was a principled conservative who tried to find ways always to make those who were not as well off as others, to enable them to move up in society.

He was particularly interested in low-income areas. He was particularly interested in expanding housing opportunities for the underprivileged. As the Speaker knows, Congressman Kemp worked very closely with Congressman Garcia in the Bronx to expand housing, to provide more opportunities. Jack Kemp was a Republican who saw a large world. He saw a world where we could reach out to all people.

In my own case, I was proud to call Jack Kemp a friend. I knew him for many years before I had the opportunity to be here in Congress. During that time I was always struck by his integrity, by his candor and by his willingness to explain, even to people like myself, the nuances of economics. Jack Kemp was the author and the architect—and no one was more involved than he was in the Reagan Revolution—of the Kemp-Roth tax bills which brought unprecedented job growth to this country.

Mr. Speaker, Jack Kemp personified the very best of this Congress. He personified the very best of being an all-pro athlete, a person who was always there for his friends, always there for his country, a man who until the day he died was fighting for the principles he believed in.

I am proud to join in this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, it's my pleasure to yield such time as he might consume to the gentleman from Pennsylvania, Representative FATTAH.

Mr. FATTAH. Mr. Speaker, I rise in support of this legislation. I knew Jack Kemp and worked with him when he was Secretary of HUD on an initiative in Philadelphia to take a major step in reforming public housing, move away from high-rise public housing for families with children and create real neighborhoods. It was Secretary Kemp, former Congressman Kemp, who really supported this effort and today, with a whole new skyline, a city of neighborhoods, increased our property values in all of the communities where we took down the high-rises and created real homes and neighborhoods for families.

So I want to just rise—even though I know he is from New York and the Yankees won—as a Philadelphian to thank Jack Kemp for his service and to support this legislation today. He truly made a difference, not just as a Member of Congress but in his life after his work in the Congress as part of the President's Cabinet and as the Secretary of Housing and Urban Development.

Mr. BILBRAY. Mr. Speaker, I yield myself as much time as I may consume.

I want to compliment the gentleman from Pennsylvania. It's true, as somebody who had to endure, as my father was stationed in South Philly before the urban renewal, but mostly before we abandoned the old concepts of urban renewal and talked about true revitalization, which was a totally different restructuring of the way government went in, it wasn't the one-size-fits-all Washington knows best, it went in and incorporated with the community, allowed the community to decide, right sizing, human sizing, not just government sizing. It really did transform, especially South Philly.

As somebody that spent his childhood, some of his childhood in Philly, I was happy to see that Jack Kemp was able to work with the local Congressmen, the local community, to make sure that in the future the children in that area wouldn't have to endure what we did in those days.

I also want to point out, Mr. Speaker, that Jack Kemp was somebody who

really stood up for the concept that thinking outside of the box was important, that Democrat or Republican or left and right, that being right was all that mattered and not worrying about staying in and being locked in to parameters of so-called political doctrine.

I would also like to point out in closing that as a personal friend of his, I appreciate the fact that we have been able to discuss his life. I just want to correct for the record that as far as I remember, Jack Kemp was not only a quarterback for the Chargers, he was the first quarterback for the Chargers. He was the guy that we first saw carrying the lightning bolt in what was then Balboa Stadium. We will always remember him not as a Congressman, not as a Secretary, but always the guy who was carrying the ball for those of us in San Diego.

I have no further requests for time, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, I would urge the passage of S. 1211, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, S. 1211.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CESAR E. CHAVEZ POST OFFICE

Mrs. DAVIS of California. Mr. Speaker, I move to suspend the rules and pass the bill (S. 748) to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the ''Cesar E. Chavez Post Office''.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CESAR E. CHAVEZ POST OFFICE.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, and known as the Southeastern Post Office, shall be known and designated as the ''Cesar E. Chavez Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Cesar E. Chavez Post Office''.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. BILBRAY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Mr. Speaker, I now yield myself such time as I may consume.

Mr. Speaker, I would like to encourage passage of S. 748, a bill to name a post office in the Logan Heights community of San Diego after Cesar Chavez.

I originally introduced this bill, and I am very pleased to see Senator BOXER's companion legislation move forward. Cesar Chavez was born in Yuma, Arizona, in 1927, and he spent the majority of his life advocating for safe working conditions and fair wages for migrant workers.

This work of his was driven by a commitment to the principles of nonviolence and community building, which has become his legacy. Cesar Chavez means so much to my constituents in San Diego because he embodied the spirit of our city, a big Navy town.

In addition to his community activism, Mr. Chavez served in the Navy, was a World War II veteran, and a recipient of the Presidential Medal of Freedom. Though most well-known for his work with farm workers, in San Diego we know him best for his work improving conditions for the men and women who worked on fishing boats and in the local canneries.

Let me tell you a little bit about Logan Heights. Logan Heights is actually one of the oldest communities in the City of San Diego, and it's a neighborhood rich in Hispanic heritage. Cesar Chavez is a hero to the people of Logan Heights.

Every year the community holds a parade in honor of him on his birthday, March 31, which is celebrated in California as a State holiday. In fact, many young people devote themselves to service on that day.

In 2003, the United States Postal Service issued a commemorative postage stamp to honor Cesar Chavez. A post office named in his honor in our community would be a lasting tribute to his legacy and symbolic of how one person can truly make a difference.

Please join me in recognizing an American hero and honoring the community of Logan Heights.

I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I have no speakers at this time, and I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 3 minutes to my friend and colleague from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Speaker, it is a great honor to be able to be here today to urge passage of this bill. Especially for those of us who personally knew Cesar Chavez, it has a special meaning.

Every year in San Jose, on Cesar's birthday, we walk from Cesar Chavez School on the east side to Cesar Chavez Plaza, which is right in the heart of San Jose.

□ 1500

Many of his relatives continue to live in San Jose, and in fact he did his first organizing about eight blocks from my home in San Jose. So it is with a great deal of pride that people in San Jose, California, endorse and support the idea of this post office, even if it is in San Diego, not in San Jose.

We would just like to say that it is an honor to be supportive of his memory. We think of him often. He was a leader who brought people together, and I will give just one example. We have the Mexican Heritage Plaza in San Jose that sits on the site of the Safeway that was the object of the first organizing effort on the grape boycott that Cesar Chavez led. One of the major contributors to that plaza is Safeway. So he managed actually to bring people who were in opposition together and made for a more peaceful and a more just world.

Mr. Speaker, I urge my colleagues to support this tribute to him.

Mr. BILBRAY. Mr. Speaker, I reserve my time.

Mrs. DAVIS of California. Mr. Speaker, I am pleased to yield 3 minutes to my colleague and friend from San Diego, Mr. FILNER, who, by the way, actually represented this district and had carried similar legislation.

Mr. FILNER. I thank Mrs. DAVIS. As she said, I represented this area, Logan Heights, for 10 years in Congress. I want to thank her for picking up the banner and doing something that the community really wants and understands as a clear incentive and appropriate honor that children in the area and other members will look to Cesar Chavez as their hero.

When I was a graduate student at Cornell University studying history, I had a colleague in the department of philosophy who was doing a Ph.D. thesis on the nature of saintliness, what constitutes a saint throughout history. The only American figure that he could find really to exemplify his notion of saintliness was Cesar Chavez. And it was not just because Chavez was an advocate of some of the most oppressed members of our society, farm workers, seasonal workers, but in the manner in which the he approached politics.

I marched with Cesar. I knew him. He approached politics with an air of humility and contemplation, and, of course, nonviolence. The marches he undertook, the boycotts, the hunger strikes, all were done in a spirit that he was going to serve the people that he represented. He was their servant, and he exemplifies the notion of being a servant to those people in the most

calm, nonviolent way that you can imagine; and people around him, and as his movement grew, were inspired by this incredible saintly manner that he exemplified and practiced.

He was a politician, yes, and he organized the farm workers. He organized boycotts. He had great victories for organizing and unionizing farm workers in California and other parts of the Nation. But it was the manner in which he did this, the calmness, the nonviolence, the sense that he could take all of these indignities and all the pressure and oppression, and respond in a positive way.

I think that is what influenced so many people, and why this honor that Mrs. DAVIS is sponsoring today is so important, to name a post office in the Logan Heights Community that really were his constituents.

Mr. BILBRAY. Mr. Speaker, just to close, I yield myself such time as I may consume.

Mr. Speaker, there is a lot about Cesar Chavez that a lot of people don't remember. The fact is that he was a decorated naval veteran. Also, they don't remember that Cesar Chavez was probably a good, well, 20 years ahead of his time. In fact, Cesar Chavez in 1969 led the first march on the Mexican border to protest illegal immigration. He was accompanied by Walter Mondale and Ralph Abernathy at that time to alert all to the problems that were equating with illegal immigration at that time.

In fact, in 1979, Mr. Chavez, testifying before Congress, pointed out that when farm workers strike and their strike is successful, the employers go to Mexico and have unlimited, unrestricted use of illegal immigrants to break our strikes. He also pointed out that the employers used professional smugglers to recruit and transport human contraband across the Mexican border specifically to break the union strikes of the farm workers.

I think as we recognize him, we understand that history does repeat itself. Years and years later, 20 years later, there were those raising the issue of the impact on the working class by illegal immigration, but first and foremost there was Cesar Chavez at the Mexican border saying illegal immigration is hurting us more than anybody is willing to admit and that the growers and the wealthy were benefiting from the exploitation of illegal immigration. History will show that Cesar Chavez was right and brave to stand up in 1969, and we should be doing the same today.

I yield back the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, before closing, I include for the RECORD this letter from the council president of San Diego, Mr. Ben Hueso, who also is celebrating and encouraging us to support this post office for Cesar Chavez in the community and recognizing what a hero he is to the people.

THE CITY OF SAN DIEGO,
San Diego, CA, October 6, 2009.

Hon. SUSAN A. DAVIS,
House of Representatives, Washington, DC.

DEAR MS. DAVIS: Cesar Chavez is a hero in my community, so I heartily endorse the proposal that the United States Postal Service facility located at 2777 Logan Avenue, San Diego, be renamed the Cesar E. Chavez Post Office in his honor. Though he passed away in 1993, this union leader's accomplishments continue to impact the quality of life for farm workers and other laborers.

I am happy that you have sponsored H.R. 1820 to effect this change, and that the bill has 15 House cosponsors. I am not surprised that support for the redesignation of the post office is widespread. This proposal was unanimously endorsed by the Senate in August, cosponsored by Senator Barbara Boxer.

Please let me know if there is anything else I can do to support your effort to honor Cesar Chavez.

Sincerely,

BENJAMIN HUESO.
Council President.

Mr. Speaker, I also wanted to mention in closing, I mentioned the fact that we have a holiday in California that young people devote to service. I think what is so really engaging about that particular holiday is that we have young people throughout the community that are so eager to carry on his legacy. They do it throughout the community in multiple ways, with the environment, educating others, educating their peers and going into schools and preschool centers to really feel that they are part of his legacy and to speak to the students.

To see the way that they really tell you so proudly of the experiences that they have had in his memory is very, very appealing; and I think it is continuing to make a difference in the lives of young people in San Diego today.

With that, I urge my colleagues to join me in supporting S. 748.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and pass the bill, S. 748.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2009

Mr. MARKEY of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3276) to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3276

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 ''American Medical Isotopes Production Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Molybdenum-99 is a critical medical isotope whose decay product technecium-99m is used in approximately two-thirds of all diagnostic medical isotope procedures in the United States, or 16 million medical procedures annually, including for the detection of cancer, heart disease, and thyroid disease, investigating the operation of the brain and kidney, imaging stress fractures, and tracking cancer stages.

(2) Molybdenum-99 has a half-life of 66 hours, and decays at a rate of approximately one percent per hour after production. As such, molybdenum-99 cannot be stockpiled. Instead, molybdenum-99 production must be scheduled to meet the projected demand and any interruption of the supply chain from production, to processing, packaging, distribution, and use can disrupt patient care.

(3) There are no facilities within the United States that are dedicated to the production of molybdenum-99 for medical uses. The United States must import molybdenum-99 from foreign production facilities, and is dependent upon the continued operation of these foreign facilities for millions of critical medical procedures annually.

(4) Most reactors in the world which produce molybdenum-99 utilize highly enriched uranium, which can also be used in the construction of nuclear weapons. In January 2009, the National Academy of Sciences encouraged molybdenum-99 producers to convert from highly enriched uranium to low enriched uranium, and found that there are ''no technical reasons that adequate quantities cannot be produced from LEU targets in the future'' and that ''a 7-10 year phase-out period would likely allow enough time for all current HEU-based producers to convert''.

(5) The 51-year-old National Research Universal reactor in Canada, which is responsible for producing approximately sixty percent of United States demand for molybdenum-99 under normal conditions, was shut down unexpectedly May 14, 2009, after the discovery of a leak of radioactive water. It is unclear whether the National Research Universal reactor will be able to resume production of molybdenum-99.

(6) The United States currently faces an acute shortage of molybdenum-99 and its decay product technetium-99m due to technical problems which have seriously interrupted operations of foreign nuclear reactors producing molybdenum-99.

(7) As a result of the critical shortage of molybdenum-99, patient care in the United States is suffering. Medical procedures requiring technetium-99 are being rationed or delayed, and alternative treatments which are less effective, more costly, and may result in increased radiation doses to patients are being substituted in lieu of technetium-99.

(8) The radioactive isotope molybdenum-99 and its decay product technetium-99m are critical to the health care of Americans, and the continued availability of these isotopes, in a reliable and affordable manner, is in the interest of the United States.

(9) The United States should move expeditiously to ensure that an adequate and reliable supply of molybdenum-99 can be produced in the United States, without the use of highly enriched uranium.

(10) Other important medical isotopes, including iodine-131 and xenon-133, can be produced as byproducts of the molybdenum-99 fission production process. In January 2009, the National Academy of Sciences concluded

that these important medical isotopes ''will be sufficiently available if Mo-99 is available''. The coproduction of medically useful isotopes such as iodine-131 and xenon-133 is an important benefit of establishing molybdenum-99 production in the United States without the use of highly enriched uranium, and these coproduced isotopes should also be available for necessary medical uses.

(11) The United States should accelerate its efforts to convert nuclear reactors worldwide away from the use of highly enriched uranium, which can be used in nuclear weapons, to low enriched uranium. Converting nuclear reactors away from the use of highly enriched uranium is a critically important element of United States efforts to prevent nuclear terrorism, and supports the goal announced in Prague by President Barack Obama on April 5, 2009, to create ''a new international effort to secure all vulnerable nuclear material around the world within four years''.

(12) The United States is engaged in an effort to convert civilian nuclear test and research reactors from highly enriched uranium fuel to low enriched uranium fuel through the Global Threat Reduction Initiative. As of September 2009, this program has successfully converted 17 reactors in the United States to low enriched uranium fuel, some of which are capable of producing molybdenum-99 for medical uses.

SEC. 3. IMPROVING THE RELIABILITY OF DOMESTIC MEDICAL ISOTOPE SUPPLY.

(a) MEDICAL ISOTOPE DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses.

(2) CRITERIA.—Projects shall be judged against the following primary criteria:

(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.

(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.

(C) The cost of the proposed project.

(3) EXEMPTION.—An existing reactor fueled with highly enriched uranium shall not be disqualified from the program if the Secretary of Energy determines that—

(A) there is no alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor;

(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U-235 to less than 20 percent, and an anticipated schedule for completion of conversion.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out the program under paragraph (1) $163,000,000 for the period encompassing fiscal years 2010 through 2014.

(b) DEVELOPMENT ASSISTANCE.—The Secretary of Energy shall establish a program to provide assistance for—

(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and

(2) commercial operations using the fuels, targets, and processes described in paragraph (1).

(c) URANIUM LEASE AND TAKE BACK.—The Secretary of Energy shall establish a program to make low enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses. The lease contracts shall provide for the Secretary to retain responsibility for the final disposition of radioactive waste created by the irradiation, processing, or purification of leased uranium. The lease contracts shall also provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for the final disposition of such radioactive waste, provided that the discount rate used to determine the net present value of such costs shall be no greater than the average interest rate on marketable Treasury securities. The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for services related to final disposition of the radioactive waste from such leased uranium.

SEC. 4. EXPORTS.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d(b)) is amended by striking subsections b. and c. and inserting in lieu thereof the following:

''b. Effective 7 years after the date of enactment of the American Medical Isotopes Production Act of 2009, the Commission may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.

''c. The period referred to in subsection b. may be extended for no more than four years if, no earlier than 6 years after the date of enactment of the American Medical Isotopes Production Act of 2009, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

''(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

''(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

''d. At any time after the restriction of export licenses provided for in subsection b. becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

''(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

''(2) the Congress passes a Joint Resolution approving the temporary suspension of the restriction of export licenses.

''e. As used in this section—

''(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

''(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235;

''(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

''(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.''.

SEC. 5. REPORT ON DISPOSITION OF EXPORTS.

Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(1) their location;

(2) whether they are irradiated;

(3) whether they have been used for the purpose stated in their export license;

(4) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission;

(5) the year of export, and reimportation, if applicable;

(6) their current physical and chemical forms; and

(7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

SEC. 6. DOMESTIC MEDICAL ISOTOPE PRODUCTION.

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following new section:

''SEC. 112. DOMESTIC MEDICAL ISOTOPE PRODUCTION. a. The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this Act—

''(1) the Commission determines that—

''(A) there is no alternative medical isotope production target, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor; and

''(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

''(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

''b. As used in this section—

''(1) the term 'alternative medical isotope production target' means a nuclear reactor target which is enriched to less than 20 percent of the isotope U-235;

''(2) a target 'can be used' in a nuclear research or test reactor if—

''(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

''(3) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.''.

(b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item after the item relating to section 111:

''Sec. 112. Domestic medical isotope production.''.

SEC. 7. ANNUAL DEPARTMENT OF ENERGY REPORTS.

The Secretary of Energy shall report to Congress no later than one year after the date of enactment of this Act, and annually thereafter for 5 years, on Department of Energy actions to support the production in the United States, without the use of highly enriched uranium, of molybdenum-99 for medical uses. These reports shall include the following:

(1) For medical isotope development projects—

(A) the names of any recipients of Department of Energy support under section 3 of this Act;

(B) the amount of Department of Energy funding committed to each project;

(C) the milestones expected to be reached for each project during the year for which support is provided;

(D) how each project is expected to support the increased production of molybdenum-99 for medical uses;

(E) the findings of the evaluation of projects under section 3(a)(2) of this Act; and

(F) the ultimate use of any Department of Energy funds used to support projects under section 3 of this Act.

(2) A description of actions taken in the previous year by the Secretary of Energy to ensure the safe disposition of radioactive waste from used molybdenum-99 targets.

SEC. 8. NATIONAL ACADEMY OF SCIENCES REPORT.

The Secretary of Energy shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to the Congress not later than 5 years after the date of enactment of this Act. This report shall include the following:

(1) For molybdenum-99 production—

(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;

(B) a review of international production of molybdenum-99 over the previous 5 years, including—

(i) whether any new production was brought online;

(ii) whether any facilities halted production unexpectedly; and

(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and

(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes coproduced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.

(2) An assessment of the progress made by the Department of Energy and others to eliminate all worldwide use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities.

SEC. 9. DEFINITIONS.

In this Act the following definitions apply:

(1) HIGHLY ENRICHED URANIUM.—The term ''highly enriched uranium'' means uranium enriched to 20 percent or greater in the isotope U-235.

(2) LOW ENRICHED URANIUM.—The term ''low enriched uranium'' means uranium enriched to less than 20 percent in the isotope U-235.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. UPTON) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. I reluctantly, but I think graciously, congratulate the Speaker and his Yankees on their victory in the World Series. Twenty-seven times——

Mr. UPTON. Reserving the right to object.

Mr. MARKEY of Massachusetts. I appreciate the gentleman from Michigan's warning to me to not go overboard; but it is, without question, a historic day.

GENERAL LEAVE

Mr. MARKEY of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American Medical Isotopes Production Act will safeguard Americans' health care and our national security. By helping to establish production of critical medical isotopes here at home, the American Medical Isotopes Production Act will end our dependence on aging nuclear reactors outside of our borders. And by responsibly ending the export of weapons-usable, highly enriched uranium for medical isotope production, this bill will give a much-needed boost to U.S. efforts to permanently convert all reactors away from the unnecessary and dangerous use of bomb-quality material.

The bipartisan bill authorizes $163 million for the Department of Energy to evaluate and support projects in the private sector or at universities to develop domestic sources of the most critical medical isotopes. This is necessary because we currently face a daunting supply shortage caused by technical problems at the aging foreign reactors upon which we are presently reliant. With a robust and reliable domestic production capacity, the 50,000 daily procedures which normally occur in this country, including for cancer scans and bone and brain imaging, will be secure.

The nuclear nonproliferation benefits of this bill are significant and they are timely. Shockingly, the United States still allows for nuclear weapons-grade highly enriched uranium to be exported to other countries for medical isotope production. This 1950s-era policy simply does not work in a post-9/11 world. It is dangerous, unnecessary, and it must come to an end. We simply cannot afford to have additional nuclear weapons materials in circulation when we know that terrorists would like nothing more than to steal or buy such dangerous materials.

Fortunately, according to the National Academy of Sciences, there are no technical or economic reasons why medical isotopes cannot be produced with low enriched uranium.

Currently, nuclear medicine is practiced mostly in the most developed countries, like the United States. But that is changing. And as more countries practice more nuclear medicine, more medical isotopes will need to be produced. In preparation for this, it is absolutely essential that we stop using highly enriched uranium for this purpose.

Previously, the United States spread these dangerous technologies around the world, including to some surprising places. For instance, the United States built a reactor in Iran which we fueled with weapons-grade uranium. Today, the Iranians want to use this reactor to produce medical isotopes, and negotiations are ongoing on this point. Fortunately for the world, the Iranian reactor was converted to low enriched uranium by Argentina in the 1980s. Converting reactors away from the use of highly enriched uranium, both at home and abroad, is very much in our national security interest. And that is exactly what this bill will do.

By sending a clear signal that the United States will no longer export this dangerous material, H.R. 3276 will accelerate U.S. efforts to convert reactors around the world from highly enriched to low enriched uranium. In fact, this has already begun, as the Department of Energy testified in September that all the medical isotope production reactors around the world which still use highly enriched uranium have approached the Department of Energy to ask for assistance in converting to low enriched uranium in the past few years.

This bill has the support of a wide variety of stakeholders, including the unanimous support of industry and the nuclear medical community, and nuclear nonproliferation advocates.

This is also a bipartisan bill, and I would like very much to thank my friend FRED UPTON from Michigan for working in such a bipartisan fashion. This is the way it should be done, and we thank him and we thank the other members of the minority and the majority for working towards this conclusion. You could not have a more excellent partner. Mr. WAXMAN and I and the other members of the committee want to note the incredible cooperation that did exist.

This bill will help to ensure that America has a reliable domestic source of the radio isotopes needed for life-

saving medical procedures, it will close a dangerous loophole in our Nation's nonproliferation policy by phasing out exports of highly enriched uranium, and it does so without increasing the Federal deficit, according to the Congressional Budget Office.

I urge a ''yes'' vote on this important bill.

I reserve the balance of my time.

□ 1515

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just start off by congratulating the gentleman from New York. I feel we will have a resolution honoring the Yankees. I would just note as a Tigers, Cubs and White Sox fan and coming from Michigan, Derek Jeter does hail from Kalamazoo, Michigan. And to his credit, he has not forgotten his roots. He is a great individual, and we appreciate his prowess on the field. I congratulate him and the Yankees as well.

Mr. Speaker, I too want to commend my colleague, ED MARKEY, and the Democratic and Republican Members on this committee for moving swiftly on an issue that is of critical importance. Problems abroad have exposed troublesome flaws here at home in nuclear medicine. Every year, 16 million medical procedures in the United States rely on the import of nuclear isotope molybdenum-99. That is 50,000 procedures every single day, and yet we import 100 percent of our supply of this isotope.

The Canadian reactor that has for decades supplied over 60 percent of molybdenum-99 is now off-line, and the nuclear reactor may never ever return to operation. Among their many medical uses, these isotopes are critical in the procedures for the detection and staging of cancer as well as heart disease. Without a proper supply of this critical isotope, tens of thousands of patients seeking diagnosis or treatment will be in jeopardy literally every single day.

So what this bill does, it will help insure a reliable supply of the most critical isotopes that are produced here in the U.S. Today, with the passage of this bill, we are a step closer to ensuring the tens of thousands of Americans who seek diagnosis and treatment every day promptly receive the care that they need. Literally, the clock is ticking, and the well-being of countless folks continues to hang in the balance.

I would note that there is a good laundry list of organizations that support this legislation, among them: American Association of Physicists in Medicine; American College of Radiology; American College of Cardiology; as well as the American Society of Nuclear Cardiology.

We don't want to deny Americans this long-practiced medical procedure which we know produces early diagnosis of a good number of diseases, and we can save countless American lives.

I would urge my colleagues on both sides to support this. Again, I congratulate the speed with which our committee held hearings, moved this through both the subcommittee and full committee. Both Mr. WAXMAN and BARTON are to be complimented, and particularly my friend, ED MARKEY, who recognized this very early, and we worked together to get it to the House floor.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I want to thank the chairman and Mr. UPTON for their leadership on this bill. I want to thank Mr. MARKEY for working with me to include language in the bill that recognizes the 17 research reactors in this country that have converted from highly enriched uranium to low enriched uranium fuel. One of these reactors is in my home State at Washington State University. This reactor can be used for medical isotope production with the use of highly enriched uranium.

I would like to clarify with Mr. MARKEY that the purpose of section 3(a)(3) which allows reactors that are in the process of converting from highly enriched uranium to low enriched uranium fuel to qualify for funds under this bill. It is my understanding that this provision should not be interpreted as giving any preferences to these reactors and that all applicants for these funds will be given full and equal consideration.

I yield to Mr. MARKEY.

Mr. MARKEY of Massachusetts. The gentleman is correct. Neither this provision nor the bill as a whole give any preference whatsoever to any technology type. The purpose of this provision is to give the Department of Energy the greatest number of options for dealing with the medical isotope crisis while also maintaining the incentive for reactors to convert to low enriched uranium fuel.

The bill includes several conditions on reactors using the exemption to ensure that their conversion to low enriched uranium fuel is successful. I fully expect the Department of Energy to give full consideration to every application for these funds, and to do so in an equitable and technology-neutral manner.

Mr. INSLEE. I would like to thank the Chair for that clarification and for working with me on one of those conditions which would make sure that we have updated status report for reactors using this exemption.

PARLIAMENTARY INQUIRY

Mr. INSLEE. Before I close, I have a parliamentary inquiry, if I may pose it.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. INSLEE. Mr. Speaker, do the rules of the House prevent Members, including those in the Chair, from wearing Yankee hats on the floor of the House of Representatives?

The SPEAKER pro tempore. The wearing of a hat is in violation of the House rules.

Mr. INSLEE. I thank you, Mr. Speaker. I am sure that rule is supported by the vast majority of Americans. Thank you for your Speakership.

Mr. UPTON. Mr. Speaker, I urge my colleagues to vote for this bill, and I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I include for the RECORD the letters of support for H.R. 3276, including from the Society For Nuclear Medicine, the American College of Cardiology, the Health Physics Society and the Union of Concerned Scientists

GE HITACHI NUCLEAR ENERGY,
Wilmington, NC, July 22, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WAXMAN, On behalf of GE Hitachi Nuclear Energy, I would like to offer my strong support for House passage of the American Medical Isotopes Production Act, introduced by Representative Edward Markey and Representative Fred Upton.

This bill will provide the resources necessary for the United States to move expeditiously to ensure that an adequate and reliable supply of molybdenum–99 can be produced in the United States, without the use of highly enriched uranium. Accordingly, Americans will benefit from a more robust supply of life-saving diagnostic medical isotopes like molybdenum–99.

GEH is pleased that this legislation has been introduced. It is in the best interest of the health and well being of the citizens of our great nation that this legislation is passed. We look forward to working with the government in bringing a solution to the medical isotope crisis facing America.

Thank you for your leadership on this important issue.

Sincerely,

LISA M. PRICE.

NUCLEAR THREAT INITIATIVES,
Washington, DC, July 20, 2009.

Hon. EDWARD J. MARKEY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MARKEY, You have asked for our reaction to your draft American Medical Isotopes Production Act of 2009. I believe this legislation can and will make an important contribution to reducing commercial use of highly enriched uranium (HEU).

As we know, HEU is the most attractive raw ingredient for nuclear terrorism, and its use to produce essential medical isotopes constitutes a continuing and dangerous global commerce in HEU. Means are now available to meet the world's medical isotopic needs with production technologies that do not rely on HEU, and conversion of existing facilities appears achievable in a span of seven-to-ten years.

We understand this legislation is principally intended to provide both a legal and a financial basis to develop domestic isotope production capacity based on low enriched uranium (LEU), which removes its proliferation potential. It would also provide for the elimination of U.S. HEU exports and the vulnerabilities associated with any transport of fissile material. These elements would constitute significant progress toward reducing nuclear terrorism risks.

We also welcome your efforts to support international steps to convert commercial isotope production processes to LEU. The U.S. can provide a valuable example by concentrating its own isotope production on LEU-based technologies, but other countries may need additional technical assistance and international coordination to accomplish their own conversions. NTI has been supporting programmatic work at the International Atomic Energy Agency to accelerate the production of molybdenum–99 without HEU, but a more focused effort supported by adequate technical and financial resources is needed to get the job done.

These collective steps would go far to eliminating a major hole in our web of efforts to reduce nuclear dangers. We appreciate your initiative in addressing these important matters, and your long record of attention to nonproliferation issues. This bill's purposes are consistent with NTI's effort to minimize highly enriched uranium use and commerce and will do much to advance that mission.

Sincerely,

SAM NUNN,
Co-Chairman.
CHARLES B. CURTIS,
President.

COUNCIL ON RADIONUCLIDES AND RADIOPHARMACEUTICALS, INC.,
Moraga, CA, September 25, 2009.

DEAR CHAIRMAN MARKEY AND RANKING MEMBER UPTON, CORAR has been asked to provide the Committee (1) the feasibility of LEU based Mo-99 medical isotopes and (2) CORAR's position on H.R. 3276, the American Medical Isotopes Production Act of 2009. CORAR supports H.R. 3276 and supports increasing the capacity for medical radionuclides in the U.S.

In regards to the technical feasibility of supply for U.S. patients of LEU medical isotopes, CORAR member companies produce all of the Tc-99m generators used by the U.S. nuclear medicine community for the detection of heart disease, cancer and other illnesses. These companies need a reliable supply of Mo-99 used to produce these Tc-99m generators to fulfill patients' needs. The reactors used to produce this Mo-99 are not operated by CORAR member companies. All of the five reactors currently producing Mo-99 to supply the U.S. are operated by government subsidized companies or government entities. Several groups have proposed different methods of producing LEU-based Mo-99 to increase the current capacity. Although CORAR believes some of these represent worthwhile efforts to supplement the current capacity, they have significantly different timetables to completion due to different regulatory and operational issues. Each of these groups has developed their own timetables and milestones for completion of their new method of Mo-99 production. Since these efforts to supplement the current Mo-99 capacity are being done by different groups it would be more appropriate for these individual groups to present the Committee with their own timetables. CORAR respectfully suggests the Committee contact each one of these groups to request a Gantt chart for their plans for the design, construction and completion of their project. CORAR also believes it would be in the committee's best interest to review the funding applications for Mo-99 projects submitted to DOE.

As you are aware, CORAR has expressed its concern that the mandatory 7 to 10 year halt of exports could be problematic if medical isotope production is insufficient to meet U.S. patient needs at that time. However, CORAR believes that the mandatory deadline included in H.R. 3276 is critical to ensure that the proposed medical isotope projects will be aggressively pursued and funded. As a result CORAR would not support modifying the deadline contained in H.R. 3276. However CORAR would encourage the committee to maintain ongoing oversight of the medical isotope supply and ensure that our patient's medical isotope needs are not restricted in 2020.

Thank you for the opportunity to provide this information to the Committee. CORAR looks forward to working with you toward the enactment of the legislation.

Sincerely,

ROY W. BROWN,
Senior Director, Federal Affairs.

THE SOCIETY OF NUCLEAR MEDICINE,
Reston, VA, July 10, 2009.

Hon. EDWARD MARKEY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MARKEY: The Society of Nuclear Medicine (SNM)—an international scientific and medical organization dedicated to raising public awareness about what molecular imaging is and how it can help provide patients with the best health care possible—appreciates your efforts to ensure a domestic supply of the important isotope Molybdenum-99 (Mo-99) within the U.S. and to curtail the use of highly-enriched uranium (HEU) in radionuclide production as a non-proliferation strategy to deter terrorism. We further appreciate your willingness to work with SNM and other stakeholders to draft legislation to responsibly address these important issues and keep patient needs in the forefront. As you know, Mo-99 decays into Technetium-99m (Tc-99m), which is used in approximately 16 million nuclear medicine procedures each year in the U.S. Recent disruptions in the supply of Mo-99 have highlighted the urgent need to ensure a domestic supply for the U.S. Your bill, the American Medical Isotope Production Act of 2009, will help patients who rely on medical imaging for the treatment and diagnosis of many common cancers by authorizing funding and providing a clear road map to create a domestic supply of Mo-99 while also allowing a responsible timeline and safeguards for the transfer of HEU to low enriched uranium (LEU); therefore, SNM endorses the American Medical Isotope Production Act of 2009.

Tc-99m is used in the detection and staging of cancer; detection of heart disease; detection of thyroid disease; study of brain and kidney function; and imaging of stress fractures. In addition to pinpointing the underlying cause of disease, physicians can actually see how a disease is affecting other functions in the body. Imaging with Tc-99m is an important part of patient care. As you may be aware, SNM, along with thousands of nuclear medicine physicians in the U.S., have, over the course of the last two years, been disturbed about supply interruptions of Mo-99 from foreign vendors and the lack of a reliable supplier of Mo-99 in the U.S. Due to these recent shutdowns in Canada, numerous nuclear medicine professionals across the country have delayed or had to cancel imaging procedures. Because Mo-99 is produced through the fission of uranium and has a half-life of 66 hours, it cannot be produced and stored for long periods of time. Unlike traditional pharmaceuticals, which are dispensed by pharmacists or sold over-the-counter, nuclear reactors produce radioactive isotopes that are processed and provided to hospitals and other nuclear medicine facilities based on demand. Any disruption to the supply chain can wreak havoc on patient access to important medical imaging procedures.

In order to ensure that patient needs are not compromised, a continuous reliable supply of medical radioisotopes is essential. Currently there are no facilities in the U.S. that are dedicated to manufacturing Mo99 for Mo-99/Tc-99m generators. The United States must develop domestic capabilities to produce Mo-99, and not rely solely on foreign suppliers. In addition, forcing a change from HEU to LEU must be done with adequate time made available for the research and development needed for the transition period. There also must be consideration of economic and environmental factors to prevent, first and foremost, putting patients at risk because of delays in production of much needed radionuclides, such as Technetium-99m (Tc-99m) which is made from Mo-99.

Your legislation will help address the needs of patients by promoting the production of Mo-99 in the United States. We thank you for your efforts and look forward to continuing to work with you on this important issue.

Should you have any further questions, please contact Hugh Cannon, Director of Health Policy and Regulatory Affairs.

Sincerely,

MICHAEL M. GRAHAM, PHD, MD,
President, SNM.

This is, in my opinion, a very important piece of legislation. It makes a connection between the nuclear medicine that is practiced in this country and the nuclear proliferation issue that we are trying to solve around the world. So this really does begin to draw that line between atoms for peace and atoms for war in a way which I think we can all on a bipartisan basis come to support. History has been pointing us in this direction. This legislation is something that all Members of this Chamber can be proud of.

Mr. Speaker, I hope that all of the Members support this legislation.

Mr. INSLEE. Mr. Speaker, I request that the attached letters in support of H.R. 3276 be entered into the RECORD. They are from Covidien, Lantheus Medical Imaging, and the Health Physics Society.

COVIDIEN,
Hazelwood, MO, July 21, 2009.

Hon. EDWARD J. MARKEY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MARKEY: Your timely introduction of the American Medical Isotopes Production Act of 2009 (AMIPA) represents an impressive effort to achieve conversion to low enriched uranium (LEU) without disruption to patients who depend on critical medical radioisotopes.

Currently, the world is experiencing a molybdenum-99 (Mo-99) shortage due to the unexpected shutdown of a reactor in Canada for urgent repair. This reactor and the four others which produce the vast majority of the world's Mo-99 supply are all aging, nearing the end of their useful lives. At stake are millions of diagnostic procedures that utilize radioisotopes produced using Mo-99, especially technetium 99m (Tc-99m).

As one of the world's principal Tc 99m suppliers and given our commitment to secure a global, interdependent Mo–99 supply chain for patients worldwide, Covidien is pleased to support AMIPA and looks forward to working with you further on this legislation as it progresses through Congress.

While Covidien supports AMIPA, we do believe aspects of the bill merit additional attention during the legislative process. For example, we appreciate your acknowledgement that the 7 to 10 year timetable may not provide adequate time to fully transition to commercial-scale LEU utilization. We are

encouraged that the legislative language provides annual reports to Congress on the status of domestic development and a National Academy of Sciences report reviewing international production of Mo-99. We hope these reports will provide ample time for Congress, if necessary, to intervene if the 7–10 year deadline cannot be met. Also, while the bill is focused on Mo-99, it does not preclude the development and manufacturing of other important radioisotopes currently produced using highly enriched uranium (HEU), such as radioiodine (I-131), which are also critically important to patients.

Please accept our thanks for your work on this important challenge and the opportunity to collaborate with you.

Sincerely,

TIMOTHY R. WRIGHT,
President.

LANTHEUS MEDICAL IMAGING,
North Billerica, MA, July 24, 2009.

Hon. EDWARD J. MARKEY,
Chair, Subcommittee on Energy and Environment, House Energy and Commerce Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. MARKEY: We are very pleased to write in strong support of the American Medical Isotopes Production Act of 2009, of which you are a co-sponsor.

Based in Billerica, Massachusetts, Lantheus Medical Imaging, Inc. (''Lantheus'') has been a worldwide leader in diagnostic medical imaging for the past 50 years. We have over 600 employees worldwide, approximately 400 of whom work in Massachusetts and approximately two dozen of whom live in the 7th Congressional District (including the undersigned). Lantheus is the home to leading diagnostic imaging brands, including, among others, Technelite® (Technetium Tc99m Generator), the leading Technetium-based generator produced in the United States in both quality and number of units sold. Lantheus sells Technelite® generators to customers located in the United States and around the world.

Molybdenum-99 is the key ingredient in the Technelite® generator. Molybdenum-99 spontaneously decays into Technetium Tc-99m which is then eluted from the generator to radiolabel organ-specific imaging agents. These radiolabelled agents are then used in a variety of heart, brain, bone and other diagnostic imaging procedures.

As the largest consumer of Molybdenum-99 in the United States, we are very concerned about the fragility of the global Molybdenum-99 supply chain. We currently rely for our Molybdenum-99 supply on nuclear reactors which produce Molybdenum-99 in Canada, South Africa, Australia, Belgium and The Netherlands. Most of these five reactors (all located outside of the United States) are aging and are increasingly subject to unscheduled shutdowns and time-consuming repairs, which limit the predictability of and accessibility to potentially millions of important medical diagnostic procedures for patients in the United States and throughout the world. We have worked closely with your office over the past several months, discussing issues affecting the medical imaging industry, and we have reviewed earlier drafts of the bill. We strongly endorse your efforts to promote the production of Molybdenum-99 in the United States for medical isotope applications.

In your discussions with your colleagues in the House and Senate about the bill, it will be important to note that the medical imaging procedures that rely on Technetium-based imaging agents contribute to improved medical care as well as cost savings for the entire medical system. It is established that better diagnostic medicine results in more appropriate treatments, better patient outcomes, less morbidity associated with inappropriate treatments and significant cost savings for the system. As a good example of this, between approximately 20% and 40% of patients that undergo a diagnostic cardiac catheterization—an invasive and costly procedure with significant morbidity and mortality risks—are found not to have coronary artery disease. In other words, hundreds of thousands of procedures are performed each year at an annual cost to the system of potentially billions of dollars, and no underlying disease is identified. A number of these cardiac catheterization procedures could be avoided if the patients had had a nuclear cardiology imaging study using a Technetium-based imaging agent, such as Lantheus' Cardiolite® (Kit for Preparation of Technetium Tc99m Sestamibi for Injection). A nuclear imaging study is non-invasive, and the radiation exposure to the patient is comparable to a cardiac catheterization (although the radiation exposure to health care professionals performing the procedures is substantially less for nuclear imaging). Moreover, a nuclear diagnostic study is between approximately 20% and 30% of the cost of a cardiac catheterization. Thus, cardiac medical imaging procedures that rely on Technetium produced from Molybdenum-99 can improve patient outcomes and reduce costs—core goals of the Obama Administration's proposed health care reforms.

Lantheus congratulates you and Congressman Upton on introducing the American Medical Isotopes Production Act of 2009. We would be pleased and honored to assist you in any way we can to ensure that this important and much-needed bill becomes enacted into law.

Sincerely,

MICHAEL P. DUFFY,
Vice President and General Counsel.

HEALTH PHYSICS SOCIETY,
McLean, VA, July 20, 2009.

Hon. EDWARD J. MARKEY,
House of Representatives,
Washington, DC.

DEAR MR. MARKEY: On behalf of the Health Physics Society, I am pleased to endorse your proposed bill entitled the ''American Medical Isotopes Production Act of 2009'' and to suggest two additions to the bill for your consideration that I feel will enhance the understanding of the need for the bill and the implementation of the bill's provisions.

From our previous collaborations you know that the Health Physics Society is an independent nonprofit scientific organization of radiation science and radiation safety professionals. As such, we strive to assist national leaders and decision makers in providing excellence in the legislation and regulation of issues related to radiation safety. We have been pleased to support and work with your staff in the past on important legislation like the series of ''Dirty Bomb Prevention Act'' bills starting in 2002 that culminated in important radiological terrorism prevention and security measures in the Energy Policy Act of 2005, and the more recent ''Nuclear Facility and Material Security Act of 2008'' introduced last year.

Once again, we would like to support and work with your staff in developing and promoting your ''American Medical Isotopes Production Act of 2009.''

The Health Physics Society interest in this legislation is based on radiation safety considerations. Specifically, the lack of a reliable supply of the isotope Molybdenum–99 (Mo–99) requires substitution of diagnostic procedures that result in a higher radiation dose to the patient and the medical practitioners performing the procedure than would be received if the Mo–99 daughter, Technicium–99m (Tc–99m), were available. In addition, the lack of a domestic supply of Mo–99 production requires the United States to ship Highly Enriched Uranium (HEU) to foreign countries with the subsequent shipment of the radioactive materials and waste products from the production of the Mo–99 back into the United States. Although we believe this is being done safely, it carries an unnecessary risk as compared to domestic production of Mo–99 using Low Enriched Uranium (LEU). One consequence, however, of using LEU in place of HEU for Mo–99 production is an increase in radioactive waste, including an increase in the production of plutonium. These waste products can be safely disposed of in properly designed disposal facilities. However, approximately 34 states do not have access to the currently authorized disposal facilities licensed by the Nuclear Regulatory Commission.

In light of these radiation safety issues associated with the proposed ''American Medical Isotopes Production Act of 2009'', the Health Physics Society recommends two additional items be included in the bill:

1. First, we recommend the ''Findings'' in the bill include a finding that the lack of a reliable supply of Mo–99 results in an unnecessary increase in the radiation doses received by patients and medical practitioners.

2. Second, we recommend the bill require the Secretary of Energy be responsible for seeing that any domestic medical isotope production facility created by this bill has access to an appropriate radioactive waste disposal facility, including a federal facility if no licensed commercial facility is available.

I hope these suggestions are helpful and I look forward to the Health Physics Society helping you in advancing this legislation. Please do not hesitate to contact me if you, or your staff, would like further information or assistance on this matter, or any other radiation safety issue.

Sincerely,

HOWARD W. DICKSON,
President.

Mr. MARKEY of Massachusetts. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 3276, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MARKEY of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 2868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 885 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2868.

□ 1525

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, with Mr. INSLEE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered the first time.

General debate shall not exceed 90 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Homeland Security, the Chair and ranking minority member of the Committee on Energy and Commerce, and the Chair and ranking minority member of the Committee on Transportation and Infrastructure.

The gentleman from Mississippi (Mr. THOMPSON), the gentleman from New York (Mr. KING), the gentleman from California (Mr. WAXMAN), the gentleman from Texas (Mr. BARTON), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Florida (Mr. MICA) each will control 15 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to present H.R. 2868, a bill to authorize reasonable, risk-based security standards for chemical facilities.

Faced with the fact that DHS' chemical security program, CFATS, would expire, the President requested and received a 1-year extension to allow this bill to go through the legislative process. Under the CFATS program, DHS placed about 6,000 facilities in four risk tiers. These sites account for just 16 percent of the 36,000 facilities that initially submitted information to DHS.

My committee began working on comprehensive chemical security legislation 4 years ago in response to widespread concern that chemical plants may be ideal terrorist targets. Previous attempts at getting comprehensive chemical security legislation to the floor in the last two Congresses were unsuccessful.

However, this Congress, thanks to the collaborative approach taken by Chairman WAXMAN, as well as by Chairmen OBERSTAR and CONYERS, the House now has an opportunity to consider this homeland security bill. I am proud of the robust stakeholder engagement that went into this bill, and to the extent with which Department and Republican input was sought and included.

H.R. 2868 closes a major security gap identified by both the Bush and Obama administrations. Specifically, titles II and III authorize EPA to establish a security program for drinking water and wastewater facilities. EPA's new program will complement CFATS.

This approach, which is fully supported by the Obama administration, taps into the existing regulatory relationship between EPA and public water facilities.

Additionally, H.R. 2868 requires all tiered facilities to assess ''methods to reduce the consequences of a terrorist attack.'' Plants that voluntarily perform these assessments, which are sometimes called IST assessments, often find that good security equals good business. In fact, this week, Clorox announced, to strengthen its operation and add another layer of security, it would voluntarily replace chlorine gas with a safer alternative at six of its bleach manufacturing facilities.

□ 1530

H.R. 2868 simply incorporates this best practice into how all tiered facilities integrate security into their operations. Additionally, H.R. 2868 strengthens CFATS by adding enforcement tools, protecting the rights of whistleblowers, and enhancing security training.

Some on the other side are arguing for a 3-year blanket extension of DHS's current authority. Such an approach flies in the face of testimony that we received about gaps in CFATS and would be a rejection of all the carefully tailored security enhancements in the bill.

This legislation demonstrates the progress we can make with a transparent process that is open to diverse viewpoints and addresses the concerns of everyone who wants to be in the process. This is exactly how government should work.

With that, Mr. Chairman, I urge passage of this important legislation and I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue of chemical plant security is obviously a very vital one. It's one that has to be addressed. It's an issue which certainly since September 11 is more vital than ever. That is why, in 2006, the Homeland Security Committee, when I was chairman working across the aisle, worked long and hard to enact landmark legislation. There was much negotiation. There was much debate. We covered issues such as preemption and inherently safer technology.

Legislation was put in place, and that is the basis upon which the Department has been acting for the past 3 years. And this legislation that we enacted then is in the process of being implemented by the Department of Homeland Security. In fact, the Department, itself, asked for a 1-year extension. That was voted on in the appropriations bill last month, which I strongly supported. As far as I know, the administration has not asked for this legislation, and I'm not aware of any statement of support that they've sent up in support of it.

But before I get to that, let me just commend the chairman, Mr. THOMPSON, the Chair of the subcommittee, Ms. JACKSON-LEE, and the ranking member of the subcommittee, Mr. DENT, because even though we are going to have differences during this debate today, I want to emphasize the fact that this was done very fairly, very openly, and with a tremendous spirit of cooperation from your side of the aisle and I hope from ours as well. The differences today are very honest ones, but I want to emphasize the level of cooperation that existed throughout this process.

I am, however, opposed to the legislation because I believe it is going to create confusion and undue cost. It is going to cost jobs, and it's going to raise taxes. It gives far too much credibility to IST, or inherently safer technology, which is a concept, yet this concept will have, I believe, a very stifling effect on the private sector. We should keep in mind that we're not just talking about large chemical plant facilities, but we're also talking about institutions such as colleges and hospitals which will have to incur these costs.

The current law is working. And I asked the chairman this during the time of the debate when it was in the committee, what is the rush to move it through? And when I say ''rush,'' obviously, if it had to be done, we should do it immediately, we should do it yesterday. But the fact is that the Department did not ask for this extension, did not ask for these changes. I believe that we took a good concept, an admirable concept of enhancing chemical plant security, and have allowed concepts and ideas regarding the environment, regarding certain pet projects, and allowed that to, I believe, have too large an influence on this bill.

There is another aspect of this bill which has been added, and that's the concept of civil lawsuits against the Department. I know Mr. MCCAUL, in the debate later, is going to offer an amendment on this issue. But any fair reading of the testimony of the Department at the hearing we held on this legislation made it clear that they did not support this language regarding the civil lawsuits.

Quite frankly, with all the work the Department of Homeland Security has to do, with the difficulty there is in bringing all of these thousands of entities into compliance with the law, I believe the last thing they need right now is to be subjected to civil lawsuits

where there would virtually be no limitations on who could bring those lawsuits. My understanding is that the person doesn't even have to be a citizen to bring a lawsuit under this or live in the State where the facility is located.

So, Mr. Chairman, this is a bridge too far. This is a rush to judgment. Rather than work with the carefully crafted and thought-out legislation that we adopted in a bipartisan way 3 years ago, we are now changing it—and changing again—without a request from the Obama administration. We have language in this legislation which was clear the administration opposed at the time of the debate on the bill when it was before the committee. So I strongly urge, reluctantly, that the legislation be voted down.

But in doing that, let me also say, Mr. Chairman, that there are a large number of organizations opposed to this legislation, such as the American Farm Bureau, the Chamber of Commerce, the American Trucking Association. I will place into the RECORD the letter which was sent by a group of these organizations in opposition to the legislation, H.R. 2868.

Mr. Chairman, let me just conclude—and by the way, I will be asking Mr. DENT to manage the balance of the time on our side. I would ask those on the other side to go easy on Mr. DENT; he is suffering from trauma. His team, the Phillies, after being lucky last year, have gone back to their usual ways and they were defeated last night. I give him credit for coming out of his bed, from coming out from underneath the covers to be here today to take part in this debate. So especially I would ask the gentleman from New Jersey (Mr. PASCRELL) who has a talent for going for the jugular, you can do it to me, but please go easy on Mr. DENT today if you would. And I'm sure the chairman concurs in the sympathy we feel for the gentleman from Pennsylvania.

Mr. Chairman, on a serious note, we started work on this legislation in good faith. That good faith continues. But I strongly believe, and others on our side do, that the extreme environmental language in the bill is going to tie the hands of the Homeland Security Secretary with unrelated costly and burdensome provisions.

Congress has granted the President's request for a 1-year extension. We should let the Department of Homeland Security continue its work. I believe that moving this legislation forward will hurt the Department, will hurt small businesses, and will not improve the security of these facilities.

NOVEMBER 4, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Capitol Building, Washington, DC.

Hon. JOHN BOEHNER,
Republican Leader, House of Representatives, Capitol Building, Washington, DC.

DEAR SPEAKER PELOSI AND REPUBLICAN LEADER BOEHNER: We write to you today to express our opposition to H.R. 2868, the ''Chemical and Water Security Act of 2009.'' Despite the changes made to this legislation in the Energy and Commerce and Homeland Security Committees, we continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation that would allow the Department of Homeland Security (DHS) to mandate that businesses employ specific product substitutions and processes. These provisions would be significantly detrimental to the progress of existing chemical facility security regulations (the ''CFATS'' program) and should not be included in this legislation. DHS should not be making engineering or business decisions for chemical facilities around the country. It should be focused instead on making our country more secure and protecting American citizens from terrorist threats. Decisions on chemical substitutions or changes in processes should be made by qualified professionals whose job it is to ensure safety at our facilities.

Furthermore, forced chemical substitutions could simply transfer risk to other points along the supply chain, failing to reduce risk at all. Because chemical facilities are custom-designed and constructed, such mandates would also impose significant financial hardship on facilities struggling during the current economic recession. Some of these forced changes are estimated to cost hundreds of millions of dollars per facility. Ultimately, many facilities would not be able to bear this expense.

Thank you for taking our concerns into account as the House of Representatives continues to consider the ''Chemical Water and Security Act of 2009.'' We stand ready to work with Congress towards the implementation of a responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association American Farm Bureau Federation American Forest & Paper Association; American Petroleum Institute; American Trucking Associations; Chemical Producers and Distributors Association; Consumer Specialty Products Association; The Fertilizer Institute; Institute of Makers of Explosives; International Association of Refrigerated Warehouses; International Liquid Terminals Association; International Warehouse Logistics Association; National Agricultural Aviation Association; National Association of Chemical Distributors; National Association of Manufacturers; National Grange of the Order of Patrons of Husbandry; National Mining Association; National Oilseed Processors Association; National Paint and Coatings Association; National Pest Management Association; National Petrochemical and Refiners Association; National Propane Gas Association; North American Millers' Association; Petroleum Equipment Suppliers Association; Petroleum Marketers Association of America; U.S. Chamber of Commerce; USA Rice Federation.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I would like to enter into the RECORD testimony from Under Secretary Rand Beers from an October hearing that reflects that this administration supports this bill and desires for action this year.

STATEMENT FOR THE RECORD BY RAND BEERS, UNDER SECRETARY, NATIONAL PROTECTION AND PROGRAMS DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY, OCTOBER 1, 2009.

Thank you, Chairman MARKEY, Ranking Member UPTON, and distinguished Members of the Committee. It is a pleasure to appear before you today as the Committee considers H.R. 3258, the Drinking Water System Security Act of 2009. This Act is intended to close the security gap at drinking water facilities that possess substances of concern.

We have made significant progress since the implementation of the Chemical Facilities Anti-Terrorism Standards (CFATS). We have reviewed over 36,900 facilities' Top-Screen consequence assessment questionnaires, and in June 2008, we notified 7,010 preliminarily-tiered facilities of the Department's initial high-risk determinations and of the facilities' requirement to submit Security Vulnerability Assessments (SVAs). We received and are reviewing almost 6,300 SVAs. We have recently begun to notify facilities of their final high-risk determinations, tiering assignments, and the requirement to complete and submit Site Security Plans (SSPs) or Alternative Security Programs (ASPs). CFATS currently covers approximately 6,200 high-risk facilities nationwide. The current state of coverage reflects changes related to chemicals of interest that facilities have made since receiving preliminary tiering notifications in June 2008, including security measures implemented and the consolidation or closure of some facilities.

CHEMICAL SECURITY REGULATIONS

Section 550 of the FY 2007 Department of Homeland Security Appropriations Act directed the Department to develop and implement a regulatory framework to address the high level of security risk posed by certain chemical facilities. Specifically, Section 550(a) of the Act authorized the Department to adopt rules requiring high-risk chemical facilities to complete SVAs, develop SSPs, and implement protective measures necessary to meet risk-based performance standards established by the Department. Consequently, the Department published an Interim Final Rule, known as CFATS, on April 9, 2007. Section 550, however, expressly exempts from those rules certain facilities that are regulated under other Federal statutes. For example, Section 550 exempts facilities regulated by the United States Coast Guard pursuant to the Maritime Transportation Security Act (MTSA). Drinking water and wastewater treatment facilities as defined by Section 1401 of the Safe Water Drinking Act and Section 212 of the Federal Water Pollution Control Act, respectively, are similarly exempted. In addition, Section 550 exempts facilities owned or operated by the Departments of Defense and Energy, as well as certain facilities subject to regulation by the Nuclear Regulatory Commission (NRC).

The following core principles guided the development of the CFATS regulatory structure:

(1) Securing high-risk chemical facilities is a comprehensive undertaking that involves a national effort, including all levels of government and the private sector. Integrated and effective participation by all stakeholders—Federal, State, local, and the private sector—is essential to securing our national critical infrastructure, including high-risk chemical facilities. Implementing this program means tackling a sophisticated and complex set of issues related to identifying and mitigating vulnerabilities and setting security goals. This requires a broad spectrum of input, as the regulated facilities bridge multiple industries and critical infrastructure sectors. By working closely with

experts, members of industry, academia, and Federal Government partners, we leveraged vital knowledge and insight to develop the regulation.

(2) Risk-based tiering will ensure that resources are appropriately deployed. Not all facilities present the same level of risk. The greatest level of scrutiny should be focused on those facilities that, if attacked, present the most risk and could endanger the greatest number of lives.

(3) Reasonable, clear, and equitable performance standards will lead to enhanced security. The current CFATS rule includes enforceable risk-based performance standards. High-risk facilities have the flexibility to select among appropriate site-specific security measures that will effectively address risk. The Department will analyze each tiered facility's SSP to see if it meets CFATS performance standards. If necessary, DHS will work with the facility to revise and resubmit an acceptable plan.

(4) Recognition of the progress many companies have already made in improving facility security leverages those advancements. Many responsible companies have made significant capital investments in security since 9/11. Building on that progress in implementing the CFATS program will raise the overall security baseline at high-risk chemical facilities.

Appendix A of CFATS lists 322 chemicals of interest, including common industrial chemicals such as chlorine, propane, and anhydrous ammonia, as well as specialty chemicals, such as arsine and phosphorus trichloride. The Department included chemicals based on the consequences associated with one or more of the following three security issues:

(1) Release—toxic, flammable, or explosive chemicals that have the potential to create significant adverse consequences for human life or health if intentionally released or detonated;

(2) Theft/Diversion—chemicals that have the potential, if stolen or diverted, to be used or converted into weapons that could cause significant adverse consequences for human life or health; and

(3) Sabotage/Contamination—chemicals that, if mixed with other readily available materials, have the potential to create significant adverse consequences for human life or health.

The Department established a Screening Threshold Quantity for each chemical based on its potential to create significant adverse consequences for human life or health in one or more of these ways.

IMPLEMENTATION STATUS

Implementation and execution of the CFATS regulation require the Department to identify which facilities it considers high-risk. The Department developed the Chemical Security Assessment Tool (CSAT) to identify potentially high-risk facilities and to provide methodologies that facilities can use to conduct SVAs and to develop SSPs. CSAT is a suite of online applications designed to facilitate compliance with the program; it includes user registration, the initial consequence-based screening tool (Top-Screen), an SVA tool, and an SSP template. Through the Top-Screen process, the Department initially identifies and sorts facilities based on their associated risks.

If a facility is initially identified during the Top-Screen process as having a level of risk subject to regulation under CFATS, the Department assigns the facility to one of four preliminary risk-based tiers, with Tier 1 indicating the highest level of risk. Those facilities must then complete SVAs and submit them to the Department. Results from the SVA inform the Department's final determinations as to whether a facility is high-risk and, if so, of the facility's final tier assignment. To date, the Department has received over 6,300 SVAs. Each one is carefully reviewed for its physical, cyber, and chemical security content.

Only facilities that receive a final high-risk determination letter under CFATS will be required to complete and submit an SSP or an Alternative Security Program (ASP). DHS's final determinations as to which facilities are high-risk are based on each facility's individual consequentiality and vulnerability as determined by its Top-Screen and SVA.

After approval of their SVAs, the final high-risk facilities are required to develop SSPs or ASPs that address their identified vulnerabilities and security issues. The higher the risk-based tier, the more robust the security measures and the more frequent and rigorous the inspections will be. The purpose of inspections is to validate the adequacy of a facility's SSP and to verify that measures identified in the SSP are being implemented.

In May, the Department issued approximately 140 final tiering determination letters to the highest risk (Tier 1) facilities, confirming their high-risk status and initiating their 120-day timeframe for submitting an SSP. In June and July, we notified approximately 826 facilities of their status as final Tier 2 facilities and the associated due dates for their SSPs. Most recently, on August 31, 2009, we notified approximately 137 facilities of their status as either a final Tier 1, 2, or 3 facility and the associated due dates for their respective SSPs. Following preliminary authorization of the SSPs, the Department expects to begin performing inspections in the first quarter of FY 2010, starting with the Tier 1-designated facilities.

Along with issuing the final tiering determination notifications for Tier 1 facilities in May, the Department launched two additional measures to support CFATS. The first is the SSP tool, which was developed by DHS with input from an industry working group. A critical element of the Department's efforts to identify and secure the Nation's high-risk chemical facilities, the SSP enables final high-risk facilities to document their individual security strategies for meeting the Risk-Based Performance Standards (RBPS) established under CFATS.

Each final high-risk facility's security strategy will be unique, as it depends on its risk level, security issues, characteristics, and other factors. Therefore, the SSP tool collects information on each of the 18 RBPS for each facility. The RBPS cover the fundamentals of security, such as restricting the area perimeter, securing site assets, screening and controlling access, cybersecurity, training, and response. The SSP tool is designed to take into account the complicated nature of chemical facility security and allows facilities to describe both facility-wide and asset-specific security measures, as the Department understands that the private sector in general, and CFATS-affected industries in particular, are dynamic. The SSP tool also allows facilities to involve their subject-matter experts from across the facility, company and corporation, as appropriate, in completing the SSP and submitting a combination of existing and planned security measures to satisfy the RBPS. The Department expects that most approved SSPs will consist of a combination of existing and planned security measures. Through a review of the SSP, in conjunction with an on-site inspection, DHS will determine whether a facility has met the requisite level of performance given its risk profile and thus whether its SSP should be approved.

Also issued with the final Tier 1 notifications and the SSP tool was the Risk-Based Performance Standards Guidance document. The Department developed this guidance to assist high-risk chemical facilities subject to CFATS in determining appropriate protective measures and practices to satisfy the RBPS. It is designed to help facilities comply with CFATS by providing detailed descriptions of the 18 RBPS as well as examples of various security measures and practices that would enable facilities to achieve the appropriate level of performance for the RBPS at each tier level. The Guidance also reflects public and private sector dialogue on the RBPS and industrial security, including public comments on the draft guidance document. High-risk facilities are free to make use of whichever security programs or processes they choose, provided that they achieve the requisite level of performance under the CFATS RBPS. The Guidance will help high-risk facilities gain a sense of what types and combination of security measures may satisfy the RBPS.

To provide a concrete example: in the case of a Tier 1 facility with a release hazard security issue, the facility is required to appropriately restrict the area perimeter, which may include preventing breach by a wheeled vehicle. To meet this standard, the facility is able to consider numerous security measures, such as cable anchored in concrete block along with movable bollards at all active gates or perimeter landscaping (e.g., large boulders, steep berms, streams, or other obstacles) that would thwart vehicle entry. As long as the measures in the SSP are sufficient to address the performance standards, the Department does not mandate specific measures to approve the plan.

OUTREACH EFFORTS AND PROGRAM IMPLEMENTATION

Since the release of CFATS in April 2007, the Department has taken significant steps to publicize the rule and ensure that our security partners are aware of its requirements. As part of this dedicated outreach program, the Department has regularly updated the Sector and Government Coordinating Councils of industries most impacted by CFATS, including the Chemical, Oil and Natural Gas and Food and Agriculture Sectors. We have also made it a point to solicit feedback from our public and private sector partners and, where appropriate, to reflect that feedback in our implementation activities, such as adjustments made to the SSP template.

We have presented at numerous security and chemical industry conferences; participated in a variety of other meetings of relevant security partners; established a Help Desk for CFATS questions; and developed and regularly updated a highly-regarded Chemical Security Web site. These efforts are having a positive impact: approximately 36,900 facilities have submitted Top-Screens to the Department via CSAT.

Additionally, the Department continues to focus on fostering solid working relationships with State and local officials as well as first responders in jurisdictions with high-risk facilities. To meet the risk-based performance standards under CFATS, facilities need to cultivate and maintain effective working relationships—including a clear understanding of roles and responsibilities—with local officials who would aid in preventing, mitigating and responding to potential attacks. To facilitate these relationships, our inspectors have been actively working with facilities and officials in their areas of operation, and they have participated in almost 100 Local Emergency Planning Committee meetings to provide a better understanding of CFATS' requirements.

We are also working with the private sector as well as all levels of government in

order to identify facilities that may meet the threshold for CFATS regulation but that have not yet registered with CSAT or filed a Top-Screen. We have recently completed pilot efforts at the State level with New York and New Jersey to identify such facilities in those jurisdictions. We will use these pilots to design an approach that all States can use to identify facilities for our follow up. Further, we are in the process of commencing targeted outreach efforts to certain segments of industry where we believe compliance may need improvement.

Internally, we are continuing to build the Infrastructure Security Compliance Division that is responsible for implementing CFATS. We have hired, or are in the process of onboarding, over 125 people, and we will continue to hire throughout this fiscal year to meet our goals. The FY 2010 budget request contains an increase to allow the hiring, training, equipping, and housing of additional inspectors to support the CFATS program as well as to continue deployment and maintenance of compliance tools for covered facilities.

NEW LEGISLATION

We have enjoyed a constructive dialogue with Congress, including this Committee, as it works on new authorizing legislation. The Department recognizes the significant work that this Committee and others, particularly the House Committee on Homeland Security, have devoted to drafting legislation to reauthorize the CFATS program and to address chemical security at the Nation's water systems. We appreciate this effort and look forward to continuing the constructive engagement with Congress on these important matters. CFATS is enhancing security today by helping to ensure high-risk chemical facilities throughout the country have security postures commensurate with their levels of risk.

The Department supports a permanent authorization of the program. Given the complexity of chemical facility regulation, the Department is committed to fully exploring all issues before the program is made permanent. To that end, the President's FY 2010 budget includes a request for a one-year extension of the statutory authority for CFATS, which will allow the time needed to craft a robust permanent program while avoiding the sunset of the Department's regulatory authority on October 4, 2009. Further, as this one year extension is considered, we urge Congress to provide adequate time and resources to implement any new requirements under the prospective legislation and to ensure that new requirements would not necessitate the Department to extensively revisit aspects of the program that are either currently in place or will be implemented in the near future. Throughout our discussions with congressional committees, the Department has communicated a series of issues for consideration as part of any CFATS legislative proposal.

It is important to note that the Administration has developed a set of guiding principles for the reauthorization of CFATS and for addressing the security of our Nation's waste water and drinking water treatment facilities. These principles are:

(1) The Administration supports permanent chemical facility security authorities and a detailed and deliberate process in so doing, hence our preference for that process to be completed in FY10.

(2) Nonetheless, CFATS single year reauthorization in this session presents an opportunity to promote the consideration and adoption of inherently safer technologies (IST) among high-risk chemical facilities. We look forward to working with this Committee and others on this important matter.

(3) CFATS reauthorization also presents an opportunity to close the existing security gap for waste water and drinking water treatment facilities by addressing the statutory exemption of these facilities from CFATS. The Administration supports closing this gap.

As DHS and EPA have stated before, we believe that there is a critical gap in the U.S. chemical security regulatory framework—namely, the exemption of drinking water and wastewater treatment facilities. We need to work with Congress to close this gap in order to secure substances of concern at these facilities and to protect the communities they serve; drinking water and wastewater treatment facilities that meet CFATS thresholds for chemicals of interest should be regulated. We do, however, recognize the unique public health and environmental requirements and responsibilities of such facilities. For example, we understand that a ''cease operations'' order that might be appropriate for another facility under CFATS would have significant public health and environmental consequences when applied to a water facility. The Administration has established the following policy principles in regards to regulating security at water sector facilities:

The Administration believes that EPA should be the lead agency for chemical security for both drinking water and wastewater systems, with DHS supporting EPA's efforts. Many of these systems are owned or operated by a single entity and face related issues regarding chemicals of concern. Establishing a single lead agency for both will promote consistent and efficient implementation of chemical facility security requirements across the water sector.

To address chemical security in the water sector, EPA would utilize, with modifications as necessary to address the uniqueness of the sector, DHS' existing risk assessment tools and performance standards for chemical facilities. To ensure consistency of tiering determinations across high-risk chemical facilities, EPA would apply DHS' tiering methodology, with modifications as necessary to reflect any differences in statutory requirements. DHS would in turn run its Chemical Security Assessment Tool and provide both preliminary and proposed final tiering determinations for water sector facilities to EPA. EPA and DHS would strive for consensus in this tiering process with EPA in its final determination, attaching significant weight to DHS' expertise.

EPA would be responsible for reviewing and approving vulnerability assessments and site security plans as well as enforcing high-risk chemical facility security requirements. Further, EPA would be responsible for inspecting water sector facilities and would be able to authorize states to conduct inspections and work with water systems to implement site security plans. It is important to note that any decisions on IST methods for the water sector would need to engage the states given their primary enforcement responsibility for drinking water and wastewater regulations.

DHS would be responsible for ensuring consistency of high-risk chemical facility security across all 18 critical infrastructure sectors.

CFATS currently allows, but does not require, high-risk facilities to evaluate transferring to safer and more secure chemicals and processes. Many facilities have already made voluntary changes to, among other things, their chemical holdings and distribution practices (for example, completely eliminating use of certain chemicals of interest). The Administration supports, where possible, using safer technology, such as less toxic chemicals, to enhance the security of the nation's high-risk chemical facilities. However, we must recognize that risk management requires balancing threat, vulnerabilities, and consequences with the cost to mitigate risk. Similarly, the potential public health and environmental consequences of alternative chemicals must be considered with respect to the use of safer technology. In this context, the Administration has established the following policy principles in regards to IST at high-risk chemical facilities:

The Administration supports consistency of IST approaches for facilities regardless of sector.

The Administration believes that all high-risk chemical facilities, Tiers 1–4, should assess IST methods and report the assessment in the facilities' site security plans. Further, the appropriate regulatory entity should have the authority to require facilities posing the highest degree of risk (Tiers 1 and 2) to implement IST method(s) if such methods enhance overall security, are feasible, and, in the case of water sector facilities, consider public health and environmental requirements.

For Tier 3 and 4 facilities, the appropriate regulatory entity should review the IST assessment contained in the site security plan. The entity should be authorized to provide recommendations on implementing IST, but it would not require facilities to implement the IST methods.

The Administration believes that flexibility and staggered implementation would be required in implementing this new IST policy. DHS, in coordination with EPA, would develop an IST implementation plan for timing and phase-in at water facilities designated as high-risk chemical facilities. DHS would develop an IST implementation plan for high-risk chemical facilities in all other applicable sectors.

Because CFATS and MTSA both address chemical facility security, there certainly should be harmonization, where applicable, between these programs. We of course continue to work closely within the Department with the Coast Guard to review the processes and procedures of both programs. We also support further clarification in the statute concerning the type of NRC-regulated facilities exempt from CFATS.

In the area of enforcement, we have expressed in our testimony on H.R. 2868 the Department's support for eliminating the requirement that an Order Assessing Civil Penalty may only be issued following an Administrative Order for compliance. This change would greatly streamline the civil enforcement process, enhancing the Department's ability to promote compliance from facilities. We also support language that would authorize the Department to enforce compliance by initiating a civil penalty action in district court or commencing a civil action to obtain appropriate relief, including temporary or permanent injunction. We note, however, that the enforcement provisions this Committee has proposed in H.R. 3258 would subject drinking water facilities to a lower maximum penalty as compared to chemical facilities regulated under H.R. 2868 if enforcement is pursued through a civil penalty action in district court. This could result in inconsistent enforcement between facilities.

The Department notes that the Drinking Water System Security Act of 2009 would give the Administrator discretion in divulging information about the reasons for placing a facility in a given tier. This provision is preferable to the provision in Title I of HR 2868 which mandates that the Department disclose specific information to tiered facilities that could include classified information.

The Department also notes that HR 3258 and HR 2868 contain provisions that require

covered facilities and government agencies to comply with all applicable state and Federal laws and exclude from protection ''information that is required to be made publicly available under any law.'' While the Department supports current requirements for facilities to report certain information to Federal and state agencies under other statutes, DHS is concerned that this language as written could increase the likelihood that sensitive information could be inappropriately disclosed to the general public. The Department would like to work with the Committee to explore what other Federal statutes and information might be affected by this language in order to ensure that there are no inconsistencies that could undermine the important goal of protecting sensitive information from unwarranted disclosure, while still protecting the public right-to-know about information that may affect public health and the environment, as embodied in these other statutes. We will also consult with our partner agencies that administer the affected Federal statutes.

CONCLUSION

The Department is collaborating extensively with the public, including members of the chemical sector and other interested groups, to work toward achieving our collective goals under the CFATS regulatory framework. In many cases, industry has voluntarily done a tremendous amount to ensure the security and resiliency of its facilities and systems. As we implement the chemical facility security regulations, we will continue to work with industry, our other Federal partners, States, and localities to get the job done.

The Administration recognizes that further technical work to clarify policy positions regarding IST and water treatment facility security is required. The policy positions discussed above represent starting points in renewed dialogue in these important areas. DHS and EPA staff are ready to engage in technical discussions with Committee staff, affected stakeholders, and others to work out the remaining technical details. We must focus our efforts on implementing a risk-and performance-based approach to regulation and, in parallel fashion, continue to pursue the voluntary programs that have already resulted in considerable success. We look forward to collaborating with the Committee to ensure that the chemical security regulatory effort achieves success in reducing risk in the chemical sector. In addition to our Federal Government partners, success is dependent upon continued cooperation with our industry and State and local government partners as we move toward a more secure future.

Thank you for holding this important hearing. I would be happy to respond to any questions you may have.

Mr. THOMPSON of Mississippi. Mr. Chairman, I now recognize a member of the committee, the gentleman from New Jersey (Mr. PASCRELL), for 2 minutes.

Mr. PASCRELL. Mr. Chairman, I rise in strong support as an original cosponsor of the Chemical Facility Anti-Terrorism Act of 2009. We must take extraordinary measures to defend America. This is common sense.

I want to thank the chairman of Homeland Security for all of his work on the bill, as well as commending Chairman OBERSTAR and Chairman WAXMAN for coming together with one voice on this critical piece of legislation.

It has to be clear to all of us that this bill is long overdue and that chemical security is one of the greatest vulnerabilities to our homeland security infrastructure. Both sides admit to that point.

This bill reauthorizes the Department of Homeland Security's authority to implement and enforce the Chemical Facility Anti-Terrorism Standards which are currently set to expire in October of 2010. In fact, the bill strengthens these standards in a number of significant ways.

Now, let's get to the meat and potatoes of what we will be debating this afternoon—and getting the amendments whenever the heck that happens.

The State of New Jersey is home to the most dangerous 2 miles in America—the FBI has pointed this out many times—along the Jersey Turnpike. Because it is the most densely populated State, with a very large chemical industry presence, I am proud to say that the State has adopted some of the strongest chemical security standards in the Nation, and it's time the Federal Government caught up. That is why I am surprised and deeply disappointed that there are Members of this body who actually hope to strip the State preexemption language out of this bill. We need to raise Federal standards, as we do in this bill, and not force States to lower their standards.

The Acting CHAIR (Mr. SERRANO). The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. PASCRELL. I am also very disappointed that the chemical industry and Members of this body continue to raise unnecessary fears about the inherently safer technology assessments. We have gone over this in testimony since 2006.

The State of New Jersey has rightfully required chemical facilities to assess for safer technology assessments, and believe it or not, our State is not only safer for it, but the sky hasn't fallen on the chemical companies in New Jersey. The truth is that this bill is not only the best thing for our homeland security, but also the best thing for the chemical industry, because assuring safety and greater efficiencies is a tremendous cost saver in the long run.

Mr. Chairman, this should be a bipartisan issue. We say that protecting the American people is our number one priority. Now is the moment to prove it.

I urge bipartisan passage of this bill.

Mr. DENT. Mr. Chairman, I appreciate this opportunity to address this legislation, and I want to thank Ranking Member KING for rubbing it in on the Phillies. I know you're very pleased about the Yankees, but at least the Phillies beat the Mets. That's all I have to say today about that. So with that, congratulations to the Yankees.

Again, this is a very important piece of legislation, as we all know. I have very serious concerns about it for a number of reasons, but it should be remembered that in 2006, we, Congress, enacted a law that gave the Department of Homeland Security the authority to regulate chemical facilities.

You're hearing a lot of talk today about inherently safer technologies, and I would like to get into that in just a moment and what it means. I should also point out as well that the State of New Jersey does require IST assessments, but not implementation of IST, which is quite different. We are going much further than the State of New Jersey in this legislation.

It's important to point out, too, that I certainly support the Department's efforts to secure chemical facilities, but unfortunately, I think this legislation is riddled with costly provisions that go beyond the underlying security purpose of the bill.

Currently, there are vulnerability assessments that the Department must do under the current regulations. There are about 6,000 vulnerability assessments that must be done. So far, 2,000 have been completed, leaving about 4,000 vulnerability assessments that remain. Adding these IST assessments will be enormously costly.

I should also point out that the Department of Homeland Security has no one on staff who is an expert in these inherently safer technologies, so I wanted to point that out for the record.

We've had a lot of testimony, too, and I want to say something about inherently safer technologies. Testimony was referenced. There was a statement from a Scott Berger, who is a director for the Center for Chemical Process Safety. Mr. Berger is an expert in inherently safer technology and inherently safer design. And as the organization that developed the most widely used reference addressing inherently safer design, inherently safer processes, and lifecycle approach, they are the leaders. That was in his testimony. And he said, What is inherently safer design, from his testimony back in June of 2006. He said, Inherently safer design is a concept related to the design and operation of chemical plants, and the philosophy is generally applicable to any technology. Inherently safer design is not a specific technology or set of tools and activities at this point in its development. It continues to evolve, and specific tools and techniques for application of inherently safer design are in the early stages of development. And he goes on.

But essentially what he's saying is inherently safer technology is a conceptual framework. It's not a technology; it's an engineering process. Unfortunately, it seems that too many in Congress are trying to act as chief engineers. We are essentially trying to tell people how to produce certain types of chemicals and what chemicals to use.

These are very technical issues. It will be very costly to implement. It will affect jobs in this country, and with unemployment rates approaching 10 percent nationally, I am very concerned about the impact on this.

I happen to represent a district, the 15th District of Pennsylvania. I have a company called Air Products and Chemicals. About 4,000 people work there. They spend their time designing and building chemical plants in this country and throughout the world. They know a bit about this. And I am extremely concerned that those types of jobs will be put at risk because these chemical plants will be built, but they will not be built here. They will be built elsewhere to produce the chemicals that we need every day in our lives. So that is something that I just feel we have to talk about.

Mr. PASCRELL. Will the gentleman yield?

Mr. DENT. I will yield briefly.

□ 1545

Mr. PASCRELL. My good friend from the 15th District of Pennsylvania, you're not suggesting that each State should decide for itself as to what the standard for chemical security should be, are you?

Mr. DENT. No

Mr. PASCRELL. You're not. Then what are you suggesting?

Mr. DENT. I am suggesting that we, as a country, maintain the regulations.

Mr. PASCRELL. Which regulations?

Mr. DENT. Reclaiming my time, the ones that are currently in place. The regulations that we just extended for 1 year.

About a month ago, when we passed the Homeland Security Appropriations Act, we extended the current regulations for 1 year. I think we should extend them for another 2 years. Let those regulations take effect. Let's implement them. We have agreement. There was a great deal of opposition to this legislation by farmers, manufacturers and others who are going to be saddled with these costs. I have to point this out:

Inherently safer technology deals with workplace safety issues and how you develop the product or the process. It doesn't deal with securing the plant—you know, hiring more guards or building fortifications to secure a plant. That deals with safety as opposed to security. I want to make that distinction because we all agree—you and I agree—that we need to make sure that these plants are secure, but inherently safer technology is really not about plant security, and I think we have to be clear about that.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, before I yield to the gentleman from Texas, I would like to say that this is a security bill. A good security bill makes all of us safe. What we're looking at now is an opportunity to go into facilities that don't, in many instances, have security assessments. If we make security assessments, then we will identify those vulnerabilities those facilities have and help them correct them. Bad people would love to get into facilities with vulnerabilities and do harm. What we're trying to do is help those facilities create the capacity to be secure. That's all we're doing.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. AL GREEN), who is a member of the committee.

Mr. AL GREEN of Texas. I thank Chairman THOMPSON for yielding me the time.

Mr. Chairman, I rarely use the personal pronoun ''I.'' I don't like using it because rarely do we accomplish things by ourselves; but to thank Chairman THOMPSON, it is appropriate that I use this personal pronoun for he was the person who helped us to put a provision into CFATS which deals with the administration of facilities along ports. In Houston, Texas, we have 25 miles of ports that we have to contend with.

Thank you, Mr. THOMPSON. Thank you, Mr. Chairman.

Let me say this: proactive measures can prevent reactive remediation. This is a proactive measure that we are taking to prevent having to do something that will help us after an event has occurred, and it's important to note that this is not just about chemical facilities.

There are many people who would say, Well, I don't have a chemical facility in my neighborhood. It really doesn't concern me. It doesn't impact me.

You do have drinking water in your neighborhood, however. This legislation deals with drinking water and with wastewater treatment facilities. It is important that wastewater treatment facilities that are in every neighborhood be properly secured, and it is of utmost importance that drinking water be secured. That's what this piece of legislation addresses as well. I don't want it said on my watch that we had an opportunity to take some preventative measures and that we failed to do so such that somebody's child, somebody's husband or wife, that somebody was harmed when we had it within our power to prevent it.

This is good, sound legislation. It is a proactive approach to prevent us from having to take some sort of remediation after the fact.

The Acting CHAIR. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. AL GREEN of Texas. Finally, citizen lawsuits are appropriate because citizens are near the problem. They know what's not going on.

Why can't we put citizens in the loop of protecting their communities?

Yes, people can sue, but there are also means by which persons who sue can be removed from the dockets of courts. Anybody can sue. You can walk into any court and sue right now for anything that you want. You don't prevail just because you file a lawsuit. Citizens can help us to help protect our communities by having this opportunity to sue.

It is a good piece of legislation, and I thank the chairman for his hard work with the other committees of jurisdiction to promulgate this legislation.

Mr. DENT. Mr. Chairman, may I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from Pennsylvania has 4 minutes remaining. The gentleman from Mississippi has 5 minutes remaining.

Mr. DENT. Mr. Chairman, I yield 2½ minutes to the ranking member of the Committee on Agriculture, the distinguished gentleman from Oklahoma (Mr. LUCAS).

(Mr. LUCAS asked and was given permission to revise and extend his remarks.)

Mr. LUCAS. Mr. Chairman, I rise in opposition to H.R. 2868, the so-called Chemical and Water Security Act of 2009.

It no longer surprises me that the Democratic leadership is, once again, racing to impose more government mandates on our farmers, ranchers and small businesses without considering the economic impact of their actions. From cap-and-trade to food safety and soon to health care, rushing ill-conceived, ill-timed legislation through Congress has shamefully become the norm around here.

In renaming the bill the Chemical Facility Anti-Terrorism Act to the Chemical and Water Security Act, I appreciate that the authors of the bill at least acknowledge that it has nothing to do with protecting our country from acts of terrorism but, rather, that it has everything to do with pacifying the extreme environmental lobby.

Some have said that agriculture should not be concerned about this legislation. Well, if that were true, then a coalition of agriculture groups, which includes the American Farm Bureau Federation, would not be circulating a letter to all Members of Congress urging them to vote against it.

Let me be clear: this bill will have a deep and negative impact on the agriculture industry.

Under the current regulatory framework, which I would support to reauthorize, farmers would have an extension appropriate to the small risks they impose. Under those regulations, chemical facilities are treated fairly and work with the Department of Homeland Security in a cooperative manner to enhance site security.

This legislation destroys that relationship. This legislation contains absolutely no authority for the Secretary of Homeland Security to grant extensions to farmers for the future. In fact, under this bill, there is no authority for the Secretary to provide for the appropriate risk-based treatment of farmers or any other disproportionately affected groups when it reissues its regulations. That's not all.

Manufacturers and suppliers of agricultural inputs, like fertilizers and pesticides, will also not be exempt from the nonsecurity-related provisions of the bill. Such provisions will jeopardize the availability of those widely used

and lower-cost agricultural inputs that are essential for agriculture production.

In essence, this sets up a scenario where input supplies will be limited, where costs will skyrocket and where U.S. food security and the livelihoods of our farmers will be threatened.

Beyond devastating the agriculture industry, this bill does not provide any additional security against acts of terrorism, which is supposed to be its purpose. National security will actually be compromised since provisions of the bill will allow citizen lawsuits in the national and homeland security arena.

The Acting CHAIR. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 30 seconds.

Mr. LUCAS. Mr. Chairman, this is an irresponsible and carelessly crafted piece of legislation that will impose mandates on family farms, small businesses, hospitals, and universities. It expands the environmental legal framework under the guise of security; and it fails to preserve, let alone expand and protect, current security protections for our country.

I urge my colleagues to oppose the bill.

Mr. THOMPSON of Mississippi. Before I recognize the gentlewoman from California, let me say that nothing in this bill prevents the Secretary from using her discretion in continuing the exemption for farmers. I will put my credentials from agriculture up against anyone's in this body. I represent a rural district. Nothing I would do in this body would harm agriculture, and I think if you check my voting record, you will absolutely see that.

Also for the record, to the gentleman from Oklahoma, let me say that, before any of these things are done, the Department has to see if it's technically feasible; they have to see if it's cost effective, and if it lowers the risk at the facility.

So all of those concerns you raise are justified, but they are addressed in the bill. So I would say that, between the time for general debate and when we start voting, if you would go back and look at that, I think some of your concerns will be resolved.

I yield 2 minutes to a member of the committee, the gentlewoman from California (Ms. RICHARDSON).

Ms. RICHARDSON. Mr. Chairman, I rise today to express my strong support for the Chemical and Water Security Act of 2009.

I would like to thank Chairman THOMPSON for his hard work in crafting this vital piece of legislation.

I support this legislation because it will enhance the security of our Nation in terms of chemicals, drinking water, and wastewater facilities. This legislation lessens the vulnerability of our most critical sectors, one of which I live in.

More specifically, I rise today to speak to a provision that I offered which protects workers who identify and report violations affecting the safety and security of chemical facilities. When it comes to the security of our facilities, we should not leave our first preventers at the door. We depend upon them to be competent, to be vigilant, and to be proactive. We owe them the assurance that they will not be penalized for doing their jobs properly. That is why I am pleased that the bill also incorporates a provision that requires the facility owners to certify in writing their knowledge of protections for whistleblowers.

So, Mr. Chairman, when we look at H.R. 2868, the answers are really clear. All you have to look back at is the poison gas leak of a Union Carbide plant in 1984 which killed 10,000 people in 72 hours, and that was an accident. Imagine the economic and strategic damage that could be done to our country.

Let's talk about my district, the 37th. I am a proud Representative of the Joint Water Pollution Control Plant in Carson, California. That wastewater treatment plant switched from using chlorine gas to liquid bleach disinfection. We need to do this throughout the country, and this legislation will enable us to do that.

I applaud Chairman THOMPSON for his work and for working with our other colleagues on the other committees.

I urge my colleagues on the other side: we can't wait. We can't wait anymore because our constituents are in danger.

The Acting CHAIR. The Chair will note that the gentleman from Pennsylvania has 1 minute remaining, and the gentleman from Mississippi has 2 minutes remaining.

Mr. DENT. Mr. Chairman, in conclusion to this discussion, I must restate my reasons for opposition to this bill.

There is not one person in the Department of Homeland Security who has any expertise in inherently safer technology. They are not prepared to deal with this mandate. I am concerned that much of this bill is, in fact, not focusing on security at all but is, rather, focusing on Federal mandates that may force our small businesses and farms to shed American jobs, further harming our vulnerable economy.

I have a letter here from 27 different organizations, including the Chamber of Commerce, the Farm Bureau and the Fertilizer Institute, which oppose the underlying legislation. They said: ''We continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.''

A lot has been said about chemical facilities, but this bill is not so much about chemical facilities as it is about facilities with chemicals, and those facilities include hospitals, colleges and universities, and 3,630 employers with fewer than 50 employees. These are the people who are going to be impacted, and jobs will be lost. With unemployment approaching 10 percent, I don't think now is the time to impose this kind of a mandate, which will not have any real security benefit to the American people.

So, with that, I would like to submit this letter for the RECORD from the various organizations in opposition to this legislation. Let's let the current regulations be implemented. Let's extend them for that 1 year and beyond.

NOVEMBER 3, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.
Hon. JOHN BOEHNER,
Republican Leader, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND REPUBLICAN LEADER BOEHNER: We write to you today to express our opposition to H.R. 2868, the ''Chemical Facility Anti-Terrorism Act of 2009'' (CFATS). Despite the changes made to this legislation in the Energy and Commerce and Homeland Security Committees, we continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation that would allow the Department of Homeland Security (DHS) to mandate that businesses employ specific product substitutions and processes. These provisions would be significantly detrimental to the progress of existing chemical facility security regulations (the ''CFATS'' program) and should not be included in this legislation. DHS should not be making engineering or business decisions for chemical facilities around the country when it should be focused instead on making our country more secure and protecting it from terrorist threats. Decisions on chemical substitutions or changes in processes should be made by qualified professionals whose job it is to ensure safety at our facilities.

Furthermore, forced chemical substitutions could simply transfer risk to other points along the supply chain, failing to reduce risk at all. Because chemical facilities are custom-designed and constructed, such mandates would also impose significant financial hardship on facilities struggling during the current economic recession. Some of these forced changes are estimated to cost hundreds of millions of dollars per facility. Ultimately, many facilities would not be able to bear this expense.

Thank you for taking our concerns into account as the Committee continues to consider the ''Chemical Facility Anti-Terrorism Act of 2009.'' We stand ready to work with the Committee and Congress towards the implementation of a responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association;
American Farm Bureau Federation;
American Forest & Paper Association;
American Petroleum Institute;
American Trucking Associations;
Chemical Producers and Distributors Association;
Consumer Specialty Products Association;
The Fertilizer Institute;
Institute of Makers of Explosives;
International Association of Refrigerated Warehouses;
International Liquid Terminals Association;
International Warehouse Logistics Association;
National Agricultural Aviation Association;
National Association of Chemical Distributors;

National Association of Manufacturers;
National Grange of the Order of Patrons of Husbandry;
National Mining Association;
National Oilseed Processors Association;
National Pest Management Association;
National Petrochemical and Refiners Association;
National Propane Gas Association;
North American Millers' Association;
Petroleum Equipment Suppliers Association;
U.S. Chamber of Commerce.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to a member of the committee, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

□ 1600

Ms. JACKSON-LEE of Texas. I thank the chairman of the committee for his leadership.

I'm pleased, as the Chair of the Transportation Security and Critical Infrastructure Protection Subcommittee, to rise to support this legislation and particularly highlight for my colleagues the importance of legislation and language that I put in the bill in our subcommittee. One dealing with whistleblower protections that requires the DHS Secretary to establish and process and to accept information from whistleblowers. We cannot be a secure Nation if people don't feel that they have the ability to tell the truth.

I'm very pleased that language is in the bill that reduces the consequence of a terrorist attack by requiring the use of inherently safer technologies, which is crucial as we begin to look at chemical facilities and wastewater facilities. In addition, the aspect of the citizen enforcement that allows a citizen to file suit against the DHS, not against a private company, that speaks to the issue of making sure that the Department of Homeland Security is in compliance.

Then, of course, I think it is important to note, as we look at background checks, that we also are reminded of people's right to work. Title I requires the Department of Homeland Security Secretary to issue regulations to require tiered facilities to undertake background checks for the safety of the American people.

This is a legislative initiative that is overdue. I ask my colleagues to support this legislation.

Mr. THOMPSON of Mississippi. Mr. Chair, I yield myself the balance of my time.

As you've heard, Mr. Chair, this legislation before us today is critical to the security of our Nation and is deserving of the full support of this House.

With that, Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Texas (Mr. BARTON) each are recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of the Chemical and Water Security Act, legislation that is a product of about 9 months of effort by the House Energy and Commerce, Homeland Security, and Transportation and Infrastructure Committees. We've worked as partners towards the final construction of this legislation.

Now, I come from a district that was home to some of the 9/11 terrorists before they launched their attacks, before they walked in our streets, scoped out our airports, rehearsed their mission. The September 11th attacks demonstrated that America's very strengths, its technology, could be turned into weapons of mass destruction to be used against us.

Mohammed Atta and the other nine terrorists that hijacked those two planes at Logan Airport on September 11th were roaming around my district for about a year trying to determine how they could exploit deficiencies in technology. And when they found it, they struck. And more than 150 people were on those planes flying from Logan towards New York City. It is something that is etched forever in my mind, and I am committed to ensuring that it is not repeated.

Since 9/11, as a result of what happened on that day, we have enacted legislation to secure aviation, to secure maritime, rail, mass transit, nuclear energy, and other sectors. But what we have yet to do is act on comprehensive legislation to secure the facilities that make or store dangerous chemicals. Instead, we have relied on an incomplete and an adequate legislative rider that was inserted into an appropriations bill in 2006 that amounted to little more than a long run-on sentence.

The chemical sector represents the best of American technological might. Its products help to purify our water; make the microchips used in our computers, cell phones, and military technologies; refine our oil; grow our food. But these same chemicals could also be turned into a weapon of mass destruction, something we are reminded of just recently when we learned of a disrupted terrorist plot to use hydrogen peroxide purchased in Colorado for a bomb planned to be detonated in New York.

While the Department of Homeland Security has done an admirable job of implementing the rather hastily crafted legislative rider from 2006, the bill before us today closes the loopholes left open by that provision that could be exploited by terrorists.

The bill contains provisions that represent more than 5 years of work on my part to ensure that facilities containing toxic chemicals switch to safer processes or substances only when it is technologically and economically feasible to do so. Terrorists cannot blow up what is no longer there. The language in this bill represents a true compromise that the Energy and Commerce Committee developed in close consultation with and using considerable input from the American Chemistry Council. Only the riskiest facilities would be subject to this provision. The Department of Homeland Security puts the number at between 100 and 200 out of a total of more than 6,000 regulated facilities.

Under 3 percent of the chemical facilities in our country would be covered under this legislation, the most dangerous, the most vulnerable, the most likely targets by al Qaeda in our country. And we know that al Qaeda has metastasized around the world. They are still trying to find the most vulnerable way that our country can be exploited, and it is our job to make sure that we pass the legislation that closes those vulnerabilities.

The American Chemistry Council and the Society of Chemical Manufacturers and Affiliates have endorsed the citizen enforcement provisions which were added in the Energy and Environment Subcommittee markup. These provisions remove all lawsuits against private companies, a change that the Chamber of Commerce has also deemed positive. The bill retains the ability for citizens to bring suit only against the Department of Homeland Security for failure to perform nondiscretionary duties and against Federal facilities for failure to comply with orders. It also establishes a citizen petition process to give citizens an official forum to report alleged security problems at private facilities to the Department of Homeland Security.

The legislation closes what both the Bush and Obama administrations have called a ''critical security gap'' for drinking water and wastewater facilities that were exempted from the 2006 law and the powers given to the Department of Homeland Security to close homeland security gaps that can be exploited by al Qaeda. In this bill, we grant the Environmental Protection Agency authority to establish a parallel security program for the water sector, consistent with the Bush and Obama administrations' views that EPA should be the lead regulator for these facilities.

Like the chemical facility language, drinking and wastewater facilities that use and store chemicals in amounts that could cause injury in the event of a release must assess whether they can switch to safer chemicals or processes and that these processes may be required by State regulators only if, and I repeat, only if they are economically and technologically feasible and if their adoption will not impair water quality. The Blue-Green coalition of environmental and labor organizations, the Association of Metropolitan Water Agencies, whose member utilities provide safe drinking to more than 125 million Americans, and the Association of California Water Agencies have all endorsed the drinking water title of this bill.

This legislation is a compromise. We engaged with all of the stakeholders and crafted language that addresses all of the concerns. And it is notable that even the Chamber of Commerce has said that it ''recognizes that several provisions have been reworked and modified to address concerns raised by the business community.''

This, ladies and gentlemen of the House, is still a glaring regulatory black hole that we must ensure is closed. We cannot allow al Qaeda to exploit this weakness that exists in the security that we place around the chemical facilities in our country. We know that it is at or near the very top of the al Qaeda target terrorist list. This legislation closes that loophole. It ensures that we are going to provide the protection for the American public from that attack, which we know somewhere in the world al Qaeda is planning if they can only find the way to exploit a weakness in our defense.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, first, let me express my heartfelt condolences to my friend from Massachusetts on the Yankees' ascendancy last night. I am one of many, many, many people in this country who, while I'm not a Red Sox fan, do not put me down in the Yankee Blue column. So maybe my Rangers one of these days will come up and at least tussle with the Red Sox and the Yankees for the American League pennant.

Mr. Speaker, I rise in opposition to this bill. Before I go into my prepared remarks, I think it's educational to explain to the body what we're actually marking up.

We had two bills that came out of the Energy and Commerce Committee, and I would assume out of the Homeland Security Committee that were marked up and subject to debate. We had a bill in the Transportation Committee that, from what I can tell, was never marked up, and we now have merged the two work products from Homeland Security, the two work products from Energy and Commerce, and a work product from the Transportation Committee that was never publicly marked up and changed them in this bill and then it's going to be yet changed again in the manager's amendment in the nature of a substitute tomorrow so that the bill that we will actually be voting on is a bill that has never seen the light of day as a single bill.

Now, on the surface all these bills, or this bill, this merged bill, should pass 435–0. The Chemical and Water Security Act sounds like something that's a suspension calendar bill. The problem is, Mr. Speaker, that the bill before us has almost nothing to do with security in the sense of protection against terrorism. It has everything to do with what I consider to be radical environmentalism under the guise of homeland security. Let me elaborate on that in the written remarks.

The approach in this legislation is deeply flawed. The overreaching problem is simply this: Protecting chemical facilities and drinking water systems from terrorist attacks should not be done under the umbrella of environmental law. If it's about stopping terrorism, we ought to be talking about computer security and fiscal security and prevention and terrorism tracking and all of the things that really make these facilities safer against terrorism. Instead, we're debating something called IST, inherently safer technology, which is a chemical process, a manufacturing process, so that you process the water, you process the chemicals in a fashion that is safer from an environmental standpoint or perhaps from a safety standpoint for the workers in the surrounding community.

□ 1615

Mr. Chair, that has nothing to do with protecting against terrorism. H.R. 2868 goes beyond the reasonable requirements that have been the core of many Homeland Security programs for several sectors. Vulnerability assessments, site security plans, emergency response plans, these are real things that should be done and are being done to protect our chemical and water facilities against terrorism, but we're substituting in this bill for this IST and these environmental requirements that really have nothing to do with security.

We have an existing security regime in place for chemical facilities and water systems, including a chemical security program that the Congress passed 3 years ago, which is still in the process of being implemented by the Department of Homeland Security. My good friend from Massachusetts talked about how that was put into law back in 2006 and seemed to intimate that it was not thoughtfully done. I would assure my friend that it was very thoughtfully done.

The Energy and Commerce Committee at that time had primary jurisdiction, and my concern, as chairman of the committee at that time, was that we really shouldn't do something on an appropriations bill. We should do it through the regular process. But because it came late in the year, we did yield to the appropriators and put it in the omnibus bill. But even doing that, we spent weeks debating and working with the Homeland Security Committee and the stakeholders to come up with what, today, I think is a better process than what is in this bill.

It is considered that the existing chemical plant security program that we already have is going to cost $18.5 billion in public and private investment right now. The reasonable thing to do, in my opinion, is to let that program be implemented before we scrap it with a totally new concept from this Congress. We need to know what the deficiencies, if any, are in the existing program before we move to a brand new program and a brand new concept.

This legislation refuses to honor common sense when simplistic ideology seems to offer a quick return on a political investment. More to the point about this being an environmental bill is the fact that I am struck by some of the key words used in the entire legislation to address terror prevention. For example, page 10, line 20 of the amendment in the nature of a substitute—and I want to be very clear about this—defines a ''chemical facility terrorist incident'' as a ''release of a substance of concern.'' If you look up the definition of ''release,'' starting on page 12, line 19, that mirrors the exact language of the toxic waste cleanup law, which we call Superfund, right down to making its covered universe of ''hazardous substances, pollutants, or contaminants.''

Mr. Chair, this means that the Department of Homeland Security is now going to treat an environmental accident or an environmental cleanup as a terrorist incident. Now, I don't want to imply that an environmental accident is not a serious issue that needs to be dealt with seriously, but it's not a terrorist attack if you have a spill of a toxic chemical at a chemical facility. It's an accident. It's a problem. It needs to be dealt with. There are environmental issues. But it is not a terrorist incident. It is not a terrorist attack. But if this bill becomes law and you have that type of an accident, it is going to be a terrorist incident, and it has to be considered by the Department of Homeland Security. I think that is ludicrous. I think it's wrong. I think it is shortsighted, and I think it is unnecessary.

I'm an industrial engineer. I understand, to some extent, plant processes and chemical processes and things like that. I think we're very blessed in this country to have a robust chemical industry, much of which is located in the States of Texas and Louisiana on the Texas and Louisiana gulf coast. If this bill becomes law, my projection is that within 10 years or so, many of those facilities are going to be closed down and inoperable, and tens of thousands of jobs are going to be lost because our chemical industry is simply going to move offshore. They're not going to stay under a legislative proposal that, on the surface of it, is almost impossible to be implemented.

I am not convinced that there is a single, true, security-enhancing thing about the specific requirements in this bill, and I know for certain that we're already making these facilities do types of things under the EPA's risk assessment program and OSHA's process safety management program that this bill then doubles down on.

We have existing laws and existing processes to handle the issues these bills really do handle. The concept is an engineering process philosophy. Congress has repeatedly heard expert testimony that the provisions in section 2111 of this bill are expensive, hard to define because of significant technical challenges, and very tough, if not impossible, to enforce.

Further, even if these problems did not exist, the Department of Homeland Security does not even have the professionals it needs to make informed decisions on how to operate the program or give guidance to those who have to implement the program. Let me repeat. This legislation is not directed at preventing terrorist attacks. It is, instead, directed at setting up a regulatory regime under which the Department of Homeland Security and EPA employees, who really don't know much about production processes at the Nation's chemical and drinking water facilities, are going to force and have to make key technical decisions—not security decisions—technical, manufacturing, process decisions about those processes.

As if this were not enough, the legislation weakens the protections traditionally given to high-risk security information by treating need-to-know information like environmental right-to-know data. I am for transparency in government, but why should we give the terrorists that we're trying to prevent from attacking these facilities almost an open book to go in and, under those open meeting requirements and open record requirements, get information that could allow them to concoct schemes to destroy those various facilities?

These provisions are not just troubling to me because this legislation will allow for more information, ironically, to be made publicly through litigation but, more so, because it's going to be very hard to penalize people that reveal this information to the public. As one of my Democrat friends said in the committee markup in the Energy and Commerce Committee, ''Loose lips sink ships,'' and there are few repercussions under this bill for somebody with loose lips.

I could go on and on, Mr. Chairman, but let me simply say, this is a bad bill at the wrong time. It's unnecessary. I hope that we can have a bipartisan vote against it, and I hope that we can defeat it.

I do want to say one good thing about the process. Mr. WAXMAN and Mr. MARKEY did have a subcommittee markup. They did have a full committee markup, and a number of amendments have been made in order by the Rules Committee for the minority to try to improve the bill, and for that, I am thankful.

Mr. Chair, I ask unanimous consent to yield the balance of my time to my good friend from Florida (Mr. STEARNS) to control.

The Acting CHAIR (Mr. TIERNEY). The gentleman from Florida will be recognized in that event.

Mr. MARKEY of Massachusetts. Mr. Chair, will you inform us as to how much time is remaining on either side.

The Acting CHAIR. The gentleman from Massachusetts (Mr. MARKEY) has 7 minutes remaining, and the gentleman from Texas (Mr. BARTON) has 3 minutes remaining.

Mr. MARKEY of Massachusetts. Mr. Chair, I yield 5 minutes to the chairman of the full committee, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I rise in strong support of H.R. 2868, the Chemical and Water Security Act of 2009. This legislation resolves some important unfinished business from 9/11. We learned on that terrible day how determined terrorists can turn our critical assets into weapons of mass destruction. Despite that wake-up call, we've been slow and inconsistent in securing our Nation's chemical facilities and water systems from terrorist attack. Passing this legislation will enhance our Homeland Security, improve the safety of our workforce, and help protect our public health.

First, the bill strengthens security at America's chemical plants by providing permanent authority for the Department of Homeland Security's chemical facility antiterrorism standard program. This legislation would establish a number of security enhancements, including requiring, for the very first time, that covered chemical facilities assess whether there are any safer chemical processes or technologies that they can adopt that would reduce the consequences of a terrorist attack against that facility. This bill would also authorize the Secretary of Homeland Security, under certain circumstances, to require that the riskiest chemical facilities adopt the safer chemical processes or technologies when necessary to reduce the likelihood that the facility will be attacked.

The bill also provides chemical facilities with an appeals process if they disagree with the DHS Secretary's determination. We crafted this provision in close consultation with considerable input from the largest chemical industry association, the American Chemistry Council.

Second, the bill establishes minimum security standards at drinking water and wastewater facilities, closing what the Bush and Obama administrations agree is a critical security gap. Under this bill, for the first time, covered water systems that use a certain amount of dangerous chemicals will have to assess whether they can switch to safer chemicals or processes to protect their employees, their neighbors, and the communities they serve.

We worked closely with the water sector to craft a bill that meets several important policy goals—clean and safe water and homeland security. I am pleased that the associations representing drinking water and wastewater utilities have endorsed the bill. These endorsing associations include the Association of Metropolitan Water Agencies, the American Public Works Association, the National Association of Clean Water Agencies, and the Association of California Water Agencies.

Third, this bill gives chemical facility workers much-needed protection by ensuring that chemical facilities and water systems involve their workers in developing plans to address any vulnerability to terrorist attack. Not only are workers the first line of defense against any attack, they would also be the first injured in the event of a chemical release. That's why this legislation is strongly supported by labor organizations, including the United Steelworkers, United Auto Workers, Communications Workers of America, and the International Chemical Workers Union Council.

And finally, this bill improves current law by creating a citizen enforcement tool that citizens can use to protect their communities when DHS fails to perform its nondiscretionary duties. It also allows States to take additional action to protect their communities from terrorists if they find it to be necessary.

This bill is the product of careful compromise, and it was drafted in close consultation with key stakeholders from government, the chemical industry, the water utilities, labor and other groups. That's why it has been endorsed by a broad coalition of labor and environmental organizations in addition to many water industry associations. I am proud of the balance we have struck.

I urge all Members to support H.R. 2868 to close these critical security gaps once and for all.

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security gap.'' Under this bill, for the first time, covered water systems that use a certain amount of dangerous chemicals will have to assess whether they can switch to safer chemicals or processes, to protect their employees, their neighbors, and the community they serve.

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Finally, I'd like to highlight two aspects of the bill.

INFORMATION PROTECTION

Each title of H.R. 2868 contains a section related to the protection of sensitive security information that could be detrimental to facility security if disclosed. The bill requires the Secretary of Homeland Security and the EPA Administrator to develop rules for the appropriate sharing of protected information with those who have a need to know it. The bill also establishes criminal penalties for any person who discloses this protected information in knowing violation of the rules.

The bill defines the types of information that is considered ''protected'' as well as the types of information that the bill's sponsors intended to exclude from that definition. The bill states that protected information does not include ''information that is required to be made publicly available under any other provision of law.'' Laws such as the Clean Air Act, the Emergency Planning and Community Right to Know Act or the Occupational Safety and Health Act require disclosure of important safety information to regulators, workers and often the public at large. An individual who discloses information in compliance with one of these other statutes should not face criminal penalties even if that information is also contained in a document such as a security vulnerability assessment that is protected under the rules established by Secretary of Homeland Security and the EPA Administrator.

DRINKING WATER FACILITIES AND SITE SECURITY PLANS

The Committee on Energy and Commerce reported H.R. 3258 favorably on October 21, 2009. H.R. 3258, now Title II of H.R. 2868, requires each covered water system to assess the system's vulnerability to a range of intentional acts. The vulnerability assessment must include a review of vulnerable assets within the fenceline of the system, such as water treatment and pre-treatment facilities and chemical storage units, as well as the off-site water distribution system. Each covered water system also must complete a site security plan that addresses the vulnerabilities identified in the assessment. With regard to the on-site vulnerabilities, the Committee intends for each covered water system to develop a site security plan that addresses those vulnerabilities using layered security measures to meet risk-based performance standards developed by EPA.

With regard to any off-site vulnerabilities identified by the covered water system, the Committee expects EPA to recognize that it would be impractical for the covered water system to guarantee the physical protection of the system's entire network of pipes, conveyances, and other usage points that comprise its distribution system. For example, it would be impracticable for the covered water system to control access to all fire hydrants or residential connections within its distribution system or all pipes that deliver its water. Similarly, the Committee does not expect for the covered water system to describe employees' roles and responsibilities for securing the distribution system beyond the fenceline of the system as part of its site security plan, unless the system has assigned one or more employees such responsibilities. The covered water system, however, may use funds granted by EPA to address off-site vulnerabilities, such as tamper-proofing of manhole covers, fire hydrants, and valve boxes.

Mr. STEARNS. Mr. Chair, may I inquire how much time is left on our side of the aisle?

The Acting CHAIR. The gentleman from Florida has 3 minutes.

PARLIAMENTARY INQUIRIES

Mr. STEARNS. Parliamentary inquiry, Mr. Chairman.

We understand that the Transportation Committee under Mr. DENT has extra time and that could be allotted, if he's not using it, to our side to use it. Is that possible by unanimous consent that we could take his 15 minutes? We have some Members who actually are going to be affected by this bill, and they're going to lose jobs in their districts. They're quite passionate about this bill, and I would like to give them more than the 3 minutes that is available. So I am asking unanimous consent if it's appropriate to do that.

The Acting CHAIR. The Committee of the Whole may not change the scheme of debate established by an order of the House. A member of the Committee on Transportation and Infrastructure would have to manage that debate.

□ 1630

Mr. STEARNS. All right, then, so we are stuck with just 3 minutes.

Is it possible, Mr. Chairman, by unanimous consent that we can extend our time beyond the 3 minutes?

The Acting CHAIR. It is not possible in the Committee of the Whole.

Mr. STEARNS. Parliamentary inquiry, Mr. Chairman. If Mr. DENT shows up on the House floor and he makes a request to give us his 15 minutes, do we need a unanimous consent? Or I will stand in and manage the time for him and then we will have 15 more minutes that we can use for these individuals who are going to be affected by this bill?

The Acting CHAIR. The Committee of the Whole cannot change the scheme of control of debate. The gentleman from Pennsylvania (Mr. DENT) could manage the time.

Mr. STEARNS. If Mr. DENT comes down, he can manage the time.

The Acting CHAIR. A member of the appropriate committee could manage the time.

Mr. STEARNS. Well, just to be careful here, I think what I am going to do is I am going to take a minute, and hopefully Mr. DENT will show up and then we can have that extra time for us.

The Acting CHAIR. As a clarification to the gentleman from Florida, the gentleman from Pennsylvania would have to be on the Transportation and Infrastructure Committee to be recognize to control the time.

Mr. STEARNS. He is coming. In fact, he might be on the floor as I speak.

The Acting CHAIR. The gentleman from Florida is recognized for such time as he may use.

Mr. STEARNS. Mr. Chairman, at a time when the U.S. Bureau of Labor Statistics cites a 16 percent decline in chemical manufacturing jobs, this Chemical Facility Anti-Terrorism Act would force people out of work by imposing needless and harmful regulations on American industries by making the production, use and storage of chemicals more expensive and burdensome with little benefit to public safety or national security.

Absent Federal preemption and a uniform national standard, this legislation will create overlapping and conflicting security requirements that could cause disruption of Federal security standards, increase government red tape, and create more economic instability. This legislation will also impose new mandates on American manufacturers as to which products and processes they use without any regard for practicality, availability or cost.

I, along with undoubtedly every Member of this body, believe that securing chemical facilities against deliberate attacks is crucial to protecting Americans, which is why, since 2006, clear and comprehensive chemical security regulations have been put in place. Removing the sunset date and making the current chemical security

regulations permanent would provide the certainty needed to both protect citizens and support our Nation's economic recovery.

I encourage all my colleagues to join me in strong opposition to this detrimental bill.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in strong support of the Chemical Facility Anti-Terrorism Act.

Mr. Chairman, I would like to thank my friend from California, Chairman WAXMAN, my friend from Minnesota, Chairman OBERSTAR, and my friend from Mississippi, Chairman THOMPSON, for their work in bringing the Chemical Facility Anti-Terrorism Act to the House floor. They deserve great credit for crafting legislation to improve security at facilities around the country.

One particular concern that this legislation can help address is the risk posed by bulk quantities of chlorine—one of the most powerful disinfectants available, but a potentially dangerous chemical when transported by rail through our neighborhoods en route to wastewater and drinking water utilities and the conventional bleach producers that often supply them.

Federal estimates are that a release of chlorine from just one of the 36,000 annual rail car shipments could result in up to 100,000 casualties. Many water utilities are shifting to bleach, which is as effective as a disinfectant but less dangerous to ship, store, and use. However, bleach made using conventional manufacturing process also relies on chlorine shipped by rail.

I am pleased to have learned that there is a safer alternative, the use of which I believe should be greatly expanded. That alternative is bleach made using only salt, water, and electricity, eliminating the need to ship chlorine across the country. This safer bleach is just as effective as conventional bleach and can be produced at costs competitive with the cost of conventional bleach.

This technology is being implemented at locations around the country, including in Florida, Ohio, Virginia, and in my congressional district in Pittsburg, California. Also, Clorox Corporation just this week announced plans to shift all of their bleach plants to use a method that would eliminate the transport of chlorine by railcar to its facilities across the country. The elimination of chlorine transport by rail is welcomed by security advocates and the railroads that bear the liability risk from transporting chlorine.

H.R. 2868 calls for identification of chemicals of concern and the use of inherently safer technology by the highest risk water utilities. Clearly, chlorine is one of these chemicals of concern—perhaps more than any other chemical used by water utilities.

However, simply changing from chlorine to bleach as a disinfectant may not solve the problem.

Chlorine railcars could continue to pass through neighborhoods to the nearby conventional bleach manufacturers, who may argue that the cost for them is too high to shift to a safer process.

For this reason, I believe that we must look at the entire supply chain and the procurement process as we work to eliminate or mitigate the consequences of a terrorist attack. In order to fully achieve Congress' intent in passing this bill, the Environmental Protection Agency and Department of Homeland Security should work together to evaluate this problem and develop a policy that will lead to safer utilities and communities by reducing the hazardous transport of chlorine.

Once again, I appreciate the work of Chairman WAXMAN, Chairman OBERSTAR and Chairman THOMPSON on this bill and I look forward to working with them and the industry as we go forward to help reduce the risks associated with the transportation of chlorine across our country.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. I thank my colleague.

First of all, I rise in strong support of H.R. 2868. I represent the largest petrochemical complex in the country. These chemical facilities contribute much to our economy and way of life and the employ thousands of workers in high-paying, quality jobs.

These chemical facilities have invested $8 billion in security improvements since 2001 and are fully complying with DHS' Chemical Facilities Antiterrorism Standards, or CFATS, that has not been fully implemented. These dedicated chemical employees, as well as the communities around them, deserve the best security standards possible to prevent another unthinkable act of terrorism on U.S. soil.

When this bill was originally introduced, I had some concerns about it. Working with both Chairman WAXMAN and Subcommittee Chairman EDDIE MARKEY along with industry and labor officials, we made a number of changes in here and I would like to summarize some of them.

We worked with the Chair to include new language to clarify that the Coast Guard would be the main entity enforcing the requirements similar to the maritime security facilities; provide an explicit consultative role for the Coast Guard if the DHS Secretary considers IST for a maritime security facility; ensure maritime security facilities would not perform additional background security requirements other than under CFATS; and identify the TWIC credential that is being used to satisfy CFATS would also satisfy this bill. That's what's so important.

Mr. Chair, I rise today in support of H.R. 2868, the Chemical and Water Security Act, a bill to protect chemical facilities and drinking water and wastewater systems across the country.

The Houston Ship Channel I represent is home to the largest petrochemical complex in the country. These chemical facilities contribute much to our economy and way of life and employ thousands of workers in high-paying, quality jobs.

Chemical facilities have already invested nearly $8 billion in security improvements since 2001 and are fully complying with DHS' Chemical Facilities Antiterrorism Standards, or CFATS, which are not yet fully implemented.

These dedicated chemical employees, as well as the communities that surround these facilities, deserve the best security standards possible to prevent another unthinkable act of terrorism on U.S. soil.

As introduced, I had several concerns with H.R. 2868 that were mostly addressed in the final bill by working with Chairman HENRY WAXMAN, Subcommittee Chairman ED MARKEY, and industry and labor representatives.

First, granting the DHS Secretary authority to mandate a facility to perform a "method to reduce a consequence of a terrorist attack"—or IST—raises questions as to whether, or how, to involve government agencies like DHS that have few, if any, process safety experts, chemical engineers and other qualified staff.

We worked to include a fair and transparent technical appeals process in H.R. 2868 that requires DHS to examine such decisions with facility representatives as well as with experts knowledgeable in the fields of process safety, engineering, and chemistry.

In addition, the scope of affected facilities nationwide potentially subject to IST requirements was substantially reduced by focusing exclusively on chemical facilities in populated areas subject to a release threat, and DHS may not mandate IST if it were not feasible or if the facility would no longer be able to continue operations at its location.

Second, H.R. 2868 as introduced created unnecessary duplication with existing regulations for chemical facilities already regulated under the Maritime Transportation Security Act, or MTSA.

We worked with the Chairmen to include new language to clarify that the Coast Guard will be the main entity enforcing the requirements of this act for MTSA facilities; provide an explicit consultative role for the Coast Guard if the DHS Secretary considers mandating IST on a MTSA facility; ensure MTSA facilities would not have to perform additional background security requirements under CFATS; and identify the TWIC credential as being able to satisfy the CFATS requirements in the bill.

Third, workers were not afforded a robust redress process in the case of any adverse decisions made due to the personnel surety requirements in the legislation.

We worked to include a "Reconsideration Process" by which workers could petition DHS to make a determination as to whether the worker poses an actual terrorist security risk, as well as included annual reports to Congress assessing much needed background check and redress process data.

Fourth, the civil suit provisions could have unnecessarily disclosed sensitive security information for facilities.

Revised language was included to permit affected citizens the ability to compel agency action on CFATS and provide an avenue for citizens to report facilities in potential violation of the bill's requirements while safeguarding sensitive information. No private right of action is permitted against private companies.

Finally, the original bill failed to streamline the regulation of both drinking water and wastewater facilities and lacked an appeals process for water systems subjected to IST decisions.

H.R. 2868 now places EPA in charge of regulating both drinking water and wastewater facilities and includes an appeals process for water systems to ensure a fair and open hearing on any IST decisions made by the State or EPA.

H.R. 2868 is far from perfect, but it includes substantial compromises to permanently extend chemical and water security regulations while reducing duplicative regulatory standards, increasing worker protections, and providing important safeguards to chemical facilities and water systems.

I want to again thank Chairman WAXMAN and Subcommittee Chairman MARKEY for working with me and other Members to improve this legislation.

The Acting CHAIR. The gentleman from Florida has 1½ minutes remaining.

Mr. STEARNS. With that, I yield that time to the gentleman from California (Mr. RADANOVICH).

The Acting CHAIR. The gentleman from California is recognized for 1½ minutes.

Mr. RADANOVICH. I realize that my friends in the majority like to trumpet the support of the drinking water title of the bill by the American Municipal Water Association, yet I want to provide my colleagues with the rest of the story.

The AMWA is just a sliver of the regulated universe covered by this bill. There are three other groups that are much larger in terms of the number of facilities and people served.

While the AMWA members claim to serve 125 million Americans, the American Water Works Association serves 180 million customers and 4,700 utilities. The National Association of Water Companies, or the NAWC, represents 22 million customers, and the National Rural Water Association represents 25,000 utilities. None of these associations has proclaimed their support for this entire bill.

In my own State, the town of Modesto, and the Modesto Irrigation District, an AWWA member contacted me to express its concerns about the citizen suit provisions and the weak information protection and penalty provisions in this bill. They were also very concerned about the expense of the mandates that would be placed on them by this legislation.

I want to remind my colleagues that drinking water treatment can be complex and is closely constrained by Safe Water Drinking Act regulations, production demands and customer affordability. Evaluating changes to water treatment must be thoughtful, must be technically transparent and fully consider all the alternatives available to the water system, as set out by the system operators and local officials, not some bureaucrat who is unsure what they are doing.

I would have hoped that a problem-solving rather than politically motivated bill would be before us to address this matter. Because there isn't, I urge defeat of this bill.

The Acting CHAIR. The gentleman from Massachusetts has 30 seconds remaining.

Mr. MARKEY of Massachusetts. I yield myself the balance of my time.

Mr. Chairman, I want to thank Michal Freedhoff from my staff; and Alison Cassady, David Leviss, Jacqueline Cohen, Phil Barnett, Greg Dotson, Kristin Amerling, Peter Ketcham-Caldwill and Melissa Cheatham from Chairman WAXMAN's staff. I would also like to thank Chris Debosier of Mr. MELANCON's staff and Derrick Ramos from Mr. GREEN's staff.

This is not an environmental bill. This is not a bill banning chemicals. This is a bill about national security, to make sure that al Qaeda cannot turn a chemical facility in our country into a weapon of mass destruction in some hometown in our country. That is what this bill is all about.

I urge an ''aye'' vote.

The Acting CHAIR. The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will be recognized for 15 minutes and the gentleman from Pennsylvania (Mr. DENT) will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself as much time as I may consume.

I rise in support of H.R. 2868, the Chemical and Water Security Act of 2009.

I join my chairman, Mr. OBERSTAR, in thanking the chairman of the Committee on Homeland Security and the chairman of the Committee on Energy and Commerce for including an amended text of my bill, H.R. 2883, the Wastewater Treatment Works Security Act of 2009, as title III in H.R. 2868.

Enactment of the Wastewater Treatment Works Security Act, in concert with the underlying language produced by the Committees on Homeland Security and Energy and Commerce, will preserve the historical relationship between wastewater utility operators and the Environmental Protection Agency in meeting both the security enhancements called for in this measure as well as the goals and purposes of the Clean Water Act.

In the wake of September 11, 2001, our Nation has learned the importance of protection of our critical infrastructure. In the weeks following 9/11, the Committee on Transportation and Infrastructure held several hearings on the overall vulnerability of infrastructure to terrorist attack, including the vulnerability of the Nation's wastewater utilities.

Since these hearings, the position of our committee, both under Democratic and Republican majorities, has been consistent. We must strive to reduce the vulnerability of wastewater infrastructure and to minimize the potential adverse impact to human health, critical infrastructure and the environment that could occur from an intentional act.

According to EPA, there are over 16,000 publicly owned treatment works in the United States as well as 100,000 major pumping stations, 600,000 miles of sanitary sewers, and another 200,000 miles of storm sewers. Taken together, these systems represent the backbone of the Nation's primary sewage treatment capacity, as well as an extensive network that runs near or beneath key buildings and roads and alongside many critical communication and transportation networks.

Significant damage to the Nation's wastewater treatment facilities or collection systems could result in the loss of life, catastrophic environmental damage to rivers, lakes and wetlands, contamination of drinking water supplies, long-term public health impacts, destruction of fish and shellfish production areas, and disruption to commerce, the economy and the Nation's way of life.

In the same light, certain wastewater treatment works throughout the United States use chemicals in their disinfectant process, such as chlorine gas, that pose a threat to public health if improperly released into the environment.

Title III of this bill, the Wastewater Treatment Works Security Act, ensures that all large- and medium-sized wastewater treatment facilities—those that treat at least 2.5 million gallons of sewage per day—perform a nationally consistent threshold security assessment and take proactive steps to reduce their overall vulnerability.

According to EPA, the provisions of title III of this act should cover approximately 17 percent of the 16,000 publicly owned treatment works in this country, yet addresses an estimated 70 percent of the population served by municipal wastewater treatment.

For those facilities that possess sufficient quantities of potentially dangerous chemicals, such as chlorine gas, this legislation requires an assessment of whether inherently safer technologies can be implemented to reduce the overall risk posed by the facility.

Yet while it is appropriate that we take action to improve the overall safety and security of our Nation's wastewater treatment facilities, we must also be aware of the unique role and public service played by our water and wastewater utilities.

Unlike typical chemical manufacturing facilities, water and wastewater facilities must remain in constant operation and cannot simply be turned off.

Mr. Chairman, a majority of the Nation's wastewater is treated by publicly owned treatment works. Discharges from these facilities, more commonly known as sewage treatment plants, are typically subject to regulation under the National Pollutant Discharge Elimination System program, established under the Clean Water Act.

Today, all but five States have received EPA approval to manage their point-source discharge programs. However, whether it is an approved State or EPA, the appropriate permitting authority is responsible for establishing

designated uses for waters and for establishing water quality criteria sufficient to protect those uses.

The permitting authority then issues Clean Water Act permits for facilities, such as sewage treatment plants, that limit the amount of pollution they may legally discharge in order to meet the established water quality criteria and the uses.

During formulation of the Chemical and Water Security Act of 2009, the Committee on Transportation and Infrastructure worked with the Committees on Homeland Security and Energy and Commerce to ensure that the security-related requirements of this bill not negatively impact the ability of wastewater treatment facilities to meet their clean water obligations.

Equally as important, this bill preserves the historic oversight of EPA and approved States in implementation of the security-related requirements of this legislation.

Mr. Chairman, I have heard that this legislation will place an unnecessary financial burden on local governments or ratepayers, or that the inherently safer technologies called for in this legislation cannot be implemented.

To answer this first concern, title III authorizes $1 billion over 5 years in grants to publicly owned treatment works to carry out the requirements of the title. State and local governments would be eligible for up to 75 percent of the costs to carry out vulnerability assessments, site security and emergency response plans, and to implement measures to improve the overall security of publicly owned wastewater treatment facilities.

□ 1645

This legislation also provides grant funding for emergency response training to first responders and firefighters who may be called upon in the event of a terrorist attack.

In response to the second concern about inherently safer technologies, I would highlight the findings of the 2006 report of the Government Accountability Office which noted that over half, 56 percent, of the largest wastewater facilities use an alternative chlorine gas in their disinfectant process. Of the remaining facilities surveyed by GAO in 2006, an additional 20 percent of the facilities that used chlorine gas have reported plans to switch to another form of disinfectant.

One key example is here in the Nation's Capital, just across the Anacostia River. In 2001, the Blue Plains Wastewater Treatment Plant, which serves the Capitol complex, switched from chlorine gas to a concentrated bleach formula for disinfection of wastewater. While the changes had been planned for some time, heightened security concerns following 9/11, including the potential impact of a terrorist attack on the U.S. Capitol complex, led facility personnel to accelerate the implementation of the inherently safer technology. If the switch from chlorine gas to the other inherently safer product was important enough to protect Members of Congress, it should be equally as important to protect our families throughout the United States.

This legislation has been endorsed by the leading wastewater utility organizations, including the National Association of Clean Water Agencies, the California Department of Sanitation Agencies, and the American Public Works Association.

I support the passage of this legislation.

I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I rise in opposition to this legislation. Our side of the aisle is going to focus on the impact on jobs. This legislation is devastating to jobs in this country, and we will get into that in just a moment.

Mr. Chairman, I yield 4 minutes to the gentleman from Houston, Texas (Mr. CULBERSON).

Mr. CULBERSON. I appreciate the time.

We in the fiscally conservative minority, Mr. Chairman, are focused on jobs. Every day that we are here, we are working to make sure we protect job growth in this Nation, and we have correctly identified this bill as a job-killing bill. And the reason is very straightforward. Just let me walk you through it.

In Texas alone, we have 470,000 jobs either directly or indirectly related to the petrochemical refining industry. In Louisiana next door, they have got about another half million jobs.

Now, the EPA has for many years, they are looking to try to change, for example, a bleaching process in the paper industry that would cost up to $200 million. The EPA has also tried to switch a refining process in the petrochemical industry from hydrochloric acid to sulfuric acid. That can be just as dangerous in a terrorist attack, but requires 250 times more acid to achieve the same result and will cost between $45 million and $150 million per refinery to convert to the sulfuric acid process, with an increase in operating costs between 200 and 400 percent.

I apologize for my voice, but I was participating in the rally outside the Capitol of people who came here today concerned about the job-killing effect of that health care bill that I share their concern and their opposition over, and wore my voice out.

But we in Texas understand the importance of protecting these facilities from terrorist attacks, and that is not our concern. We are concerned about the bureaucracy this bill creates.

But let me very quickly just read from the bill, Mr. Chairman. Let's look at the definitions. If you look at the definition of chemical facility, that is any facility that contains a substance of concern.

When you look at the definition of the environment, you will see right away that means the waters, navigable water or saltwater, contiguous to the United States. And one of our biggest concerns in this legislation, you will find it buried on page 95.

''The Environmental Protection Agency Administrator,'' I am quoting directly from the bill, ''may designate any chemical substance as a substance of concern and shall establish a threshold quantity for the release of the substance, and if that substance has any serious adverse effect on the environment, the EPA administrator can shut it down.''

This is not a safety provision for protecting us against terrorist attacks. This is a straightforward environmentalist piece of legislation designed to give the EPA authority that they do not currently have.

This chart shows the Houston ship channel, which my friend GENE GREEN represents. There are tens of thousands of jobs that are reliant on the petrochemical refining industry along the Houston ship channel.

This map shows southwest Louisiana and southeast Texas between Baton Rouge and Corpus Christi, Texas. Almost half of the Nation's petrochemical refining capacity is concentrated in southwest Louisiana and southeast Texas. They are doing a far better job today in protecting the environment and in protecting against terrorist attacks. We have already got legislation on the books that Mr. BARTON mentioned that is costing about $18 billion to implement to protect against terrorist attacks.

I would ask the majority, it makes no sense for this Congress to pass legislation today that would so clearly kill jobs. According to the National Association of Manufacturing, this bill will kill tens of thousands of jobs in the petrochemical refining industry across this Nation. When we have already got legislation on the books to protect against terrorist attacks, why would this Congress pass legislation which so obviously will kill jobs, which so clearly, here it is on page 95 in clear English, is directed at giving the administrator of the EPA the ability to designate any chemical they want as a threat to the environment.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 20 seconds.

Mr. CULBERSON. This is an extremely dangerous piece of legislation which will kill jobs in the petrochemical refining industry across the United States, and I urge my colleagues to defeat it. In a time of recession, we have got to protect jobs and build jobs, not pass more regulations that will kill jobs.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I would like to yield 3 minutes to the gentleman from New Jersey (Mr. SIRES).

Mr. SIRES. Mr. Chairman, I rise today as a proud supporter of H.R. 2868, the Chemical and Water Security Act of 2009. I would like to thank Chairman THOMPSON, Chairman OBERSTAR, and

Chairman WAXMAN for their leadership in this crucial piece of legislation.

I know firsthand the challenges and risks that large urban areas face. The district I represent is densely populated and home to critical transportation infrastructure, as well as chemical plants. In fact, the district is considered to have the most dangerous 2-mile stretch in the Nation.

On the morning of September 11, I witnessed the destructive capabilities of terrorism. I believe we must do everything in our power to address the known threats so we can reduce our risk and prevent future catastrophes. I know H.R. 2868 will bring us several steps closer to securing the facilities across the country that we rely on each day. The safety of our communities depends on the security measures taken at these facilities.

Mr. Chairman, increased security measures should not be viewed as a burden, but as an opportunity to reduce threats by promoting best practices. This legislation is skillfully designed to increase our security without jeopardizing facility services, and I urge my colleagues to vote in favor of H.R. 2868.

I also would like to add, we heard concerns today about the potential impact of this bill on the economy and jobs. I want to take this opportunity to share with you the views of those who have the most at stake in this argument, the workers themselves.

The United Steelworkers, the International Chemical Workers Union Council, the International Brotherhood of Teamsters, the Service Employees International Union, the Communication Workers of America, and the United Auto Workers Union Legislative Alliance sent a letter to Congress on October 30 expressing their strong support for this bill. The workers are on the front lines in defending chemical facilities in this country.

Mr. DENT. Mr. Chairman, I would like to yield 4 minutes to the distinguished gentleman from New Orleans, Mr. SCALISE.

Mr. SCALISE. I want to thank the gentleman for yielding.

I rise in opposition to this bill because it has nothing to do with security of our chemical facilities. The chemicals facilities spend millions and millions of dollars to secure their facilities, and I would suggest that those facilities are more secure than most Federal buildings because there is so much at stake, and nobody has challenged or suggested anything other than that they do protect their facilities.

What this is about is radical environmentalists coming in and trying to impose new policies. They call it ''inherently safer technologies.'' And what is that? Well, clearly it is not anything that is going to make the plant more efficient because those companies spend millions of dollars continuing to upgrade and make the most modern facilities that they have so they can continue manufacturing in this country. What it means is there is some people in the Federal Government who want to go in and tell manufacturing companies which products to use in their manufacturing facilities.

Now, one of the problems we have got right now in our economy is that the government is trying to run every business that there is out there. The government is trying to run car companies, and look at how well that has turned out. The government is running banks, and look at how well that has turned out. The government has czars trying to run all of these different aspects of our economy, and it is not working.

In fact, unemployment is now at 9.8 percent, approaching 10 percent, when they said their stimulus bill would cap unemployment at 8 percent. So clearly their approach to fixing this economy is not working and it has led to more job losses.

In fact, if you look at the results of the elections on Tuesday night in Virginia and New Jersey, people turned out in droves and said it is jobs. It is the economy. We want government to stop running jobs out of this country.

So what do they do? They bring us another bill today that runs more jobs out of this country. Because if you look at what is going to happen to these facilities, petrochemical facilities that refine oil, there is talk about, oh, we want to reduce our dependence on foreign oil.

Sure we want to reduce our dependence on foreign oil. You don't do it by running every refinery out of this country to China or India or the Middle East. That is what this bill will do. It will increase our dependence on foreign oil and on companies in the Middle East that refine oil.

It will run millions of jobs out of this country, and these are high-paying jobs. The average cost at some of these chemical facilities is over $70,000 per year per employee. And their bill that they are bringing forward will run thousands, in south Louisiana thousands, of those jobs out of this country.

You wonder why businesses are running around right now feeling like they have a bull's eye on their back by the Federal Government. It is because of policies just like this. Cap-and-trade is still out there. You have the card check bill that has businesses scared to death to hire anybody in America because of what Congress is going to do to them.

That is not the role of government. That is not the role of Congress. We should be trying to spend time here helping create jobs. Instead, we have got a bill on the floor, yet another of a long laundry list of legislation, that will run more jobs out of the economy, out of this country.

Nobody has disputed that. All of the business groups that have looked at this have said this will run jobs out of this country, and it won't do anything to increase security at our facilities, because they are already doing the things they need to do to keep us safe, and nobody has suggested otherwise. We need to defeat this legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. I am taking a little bit different tack here. I don't object to what we are trying to do, but as I have thought about this over the last few hours, I have a concern, and this concern has to do with I think there has been very little discussion with those that produce our food and fiber in this country, which I have been involved in most of my life, as well as many others here. I am told that there has not been too much coordination.

So I am not saying don't do this. I am wondering if we could just pause for a minute and take some time to discuss the impact on another area of security, if you will, homeland security and the production of food and fiber.

Our farmers in this country, dairy farmers by the multitudes, are going under. Pork producers are down about $22 per head over the last 24 months. Beef producers can't meet the cost of input. Corn producers in my State are not meeting the cost of input. And I think maybe it would be time well spent if we could just pause and think about the impact of these things on what we are trying to do.

Yes, we need to protect our environment. Yes, we need to protect our water. Nobody is arguing about that. We in agriculture think that very strongly.

□ 1700

But probably who I need to be talking to is not here listening on the floor today to be able to cause this pause to take place. Mr. Chairman, I think this is deserving of some careful consideration because one thing that we haven't done in this country compared to some places around the world, we haven't been hungry. If that should happen, we would certainly, surely have a very, very serious security situation.

I think the intent is good, but I think we need a little pause to talk for a day or two about the possibility, about the impact that this has on food and fiber production in this great country of ours.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, thank you very much. I appreciate the chance to be on the House floor today to speak in opposition to this bill, and I am particularly delighted to speak after the gentleman from Iowa (Mr. BOSWELL) has just spoken because my message to my colleagues on the Agriculture Committee and others from rural America, whether Republicans or Democrats, is this is

a bad bill for rural America and for our agriculture producers and the small businesses that support agriculture in rural America.

While it is a noble effort and something that I think everyone on the House floor would agree on, we need to move in the direction of greater security in regard to chemicals. Aspects of this bill, as indicated by the gentleman from Texas (Mr. BARTON), really do not relate to security. They are about employee safety, workforce safety, the environment in which we work. It is about environmental rules and regulations. And in some fashion in our legislative process here, the Department of Homeland Security issues have been overcome, the positives that may be there from increasing our security, are overcome by the detrimental costs associated with environmental and labor issues.

So this bill, particularly because of the IST provisions, is a bill that is detrimental. As Mr. BOSWELL indicated, increasing input costs—fertilizers, chemicals, pesticides—those things matter to production agriculture today, especially today when the economic circumstances in which our farmers find themselves is so narrow, so difficult, anything that increases the cost is very damaging.

Finally, the businesses that support them, they make up a huge component of rural communities across my State, across rural America and across our country, and putting those folks out of business has a significant consequence to the future of the people that I represent.

So I urge my colleagues from all across rural America to oppose this legislation for the dramatic and damaging effect it will have upon the people who produce food and fiber in this country and the businesses that support that effort.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I would like to include for the RECORD correspondence from the National Association of Clean Water Agencies and the California Association of Sanitation Agencies.

OCTOBER 29, 2009.

Hon. NANCY PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: The National Association of Clean Water Agencies and the California Association of Sanitation Agencies support incorporating wastewater facility security legislation into the Chemical Facility Anti-Terrorism Act (H.R. 2868) once chemical facility legislation is sent to the House floor. In furtherance of this objective, we support including the Wastewater Treatment Works Security Act (H.R. 2883) as a separate title in comprehensive chemical facility legislation. We have reviewed the manager's amendment to H.R. 2883, and believe this language addresses our primary concern: the prospect of separate regulatory regimes for drinking water and wastewater treatment systems. Numerous local agencies provide both water and wastewater treatment services. The dual regulatory system is counterproductive and entirely without any security benefits.

Our organizations have appreciated the opportunity to work with the Homeland Security, Transportation and Infrastructure, and Energy and Commerce Committees on reaching a resolution to this issue. We look forward to supporting your efforts to bring this legislation to the House floor for floor debate and passage. If you have any questions or wish to discuss this matter further, please contact Patricia Sinicropi, NACWA Legislative Director.

Sincerely,

KEN KIRK,
Executive Director, National Association of Clean Water Agencies (NACWA).

CATHERINE SMITH,
Executive Director, California Association of Sanitation Agencies (CASA).

AMERICAN PUBLIC WORKS ASSOCIATION,
Kansas City, MO, October 29, 2009.

Hon. NANCY PELOSI,
Speaker of the House, Cannon House Office Building, Washington, DC.

DEAR MADAM SPEAKER: I am writing to urge you to move the Chemical Facility Anti-Terrorism Act (HR 2868), which now includes language addressing security at drinking water and wastewater facilities, to the floor for a vote as soon as possible. The committees with an interest in chemical security at facilities across the nation have worked diligently to craft a comprehensive package that provides an appropriate and sensible approach to closing the existing regulatory gap in the current regulatory framework by leaving EPA as the lead regulatory authority over the water sector.

Establishing a single lead agency for security over substances of concern from intentional incidents or natural disasters at drinking water and wastewater facilities will promote consistent and efficient implementation of chemical security across the water sector while simultaneously ensuring continued protection of public health and the environment. Moreover, the Environmental Protection Agency (EPA) has a long established and active water security program that promotes security and resiliency within the water sector. EPA, in close cooperation with the sector, is using a multi-layered approach to ensure the water sector assesses its vulnerabilities, reduces risks, prepares for emergencies and responds to intentional incidents and/or natural disasters. Over the past several years, great progress has been made and the comprehensive approach taken in HR 2868 will ensure that this progress continues.

Working in the public interest, the more than 29,000 members of the American Public Works Association plan, design, build, operate, manage and maintain the water supply, sewage and refuse disposal systems, public buildings, transportation infrastructure and other structures and facilities essential to our nation's economy and way of life.

Again, I urge you to bring the Chemical Facility Anti-Terrorism Act to the floor of the House for a vote. Thank you for your leadership and attention to this matter.

Sincerely,

PETER B. KING,
Executive Director

Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. OBERSTAR), the chairman of the full committee.

Mr. OBERSTAR. I thank the gentlewoman for her splendid management of the bill, for her work in the subcommittee and holding the hearings and crafting the legislation.

I want to just point out that our committee's role was to ensure that while the Department of Homeland Security will set the standards, it will be the EPA and publicly owned treatment works, locally owned, operated, and managed will carry them out. It will not be done by Homeland Security.

I heard just a fragment of my good friend and colleague from Iowa raising his concerns about the effect on agriculture. I want to emphasize, and while this is not directly our committee's jurisdiction, we made it very clear that the Department of Homeland Security has definitely, completely, exempted all end users of chemicals in agriculture. That means, farms, ranches, crops, feed and livestock facilities from the chemical security program. It does not add agricultural facilities. We were very clear about that. We wanted to be sure in our discussions with the Committee on Homeland Security that we did not have any spillover of unintended consequences.

Only the largest terminals, manufacturers, wholesale distributors of agricultural chemicals remain in the chemical security program, not farmers, not ranchers, not crop, feed, or livestock facilities. The EPA administrator has authority only to regulate security at wastewater and drinking water facilities, not on farms, not on ranches, not to any of the chemicals that they use. The legislation ensures that EPA will appropriately balance clean water, wastewater treatment with security needs of the Nation as set in standards set by the Department of Homeland Security. It does not give EPA any authority over chemical facilities now regulated under other provisions or by DHS.

Mr. Chair, I rise in strong support of H.R. 2868, the "Chemical and Water Security Act of 2009".

At the outset, let me also thank the gentleman from Mississippi (Mr. THOMPSON), Chairman of the Committee on Homeland Security, and the gentleman from California (Mr. WAXMAN), Chairman of the Committee on Energy and Commerce, for their efforts on this legislation and their willingness to include the text of the "Wastewater Treatment Works Security Act of 2009" as title III of the bill under consideration today.

In June of 2009, I joined with the Chairwoman of the Subcommittee on Water Resources and Environment, EDDIE BERNICE JOHNSON, in introducing H.R. 2883, the "Wastewater Treatment Works Security Act of 2009," to address the security needs of wastewater treatment facilities under the auspices of the Clean Water Act. That legislation, as amended, is incorporated as title III of H.R. 2868.

Enactment of the "Wastewater Treatment Works Security Act," in concert with the underlying language produced by the Committees on Homeland Security and Energy and Commerce, will preserve the historical relationship between wastewater utility operators and the Environmental Protection Agency (EPA) in meeting both the security measures called for in this legislation, as well as the goals and purposes of the Clean Water Act.

Mr. Chair, following the terrorist attacks of September 11, 2001, the identification and protection of critical infrastructure, including the Nation's system of wastewater infrastructure, has become a national priority. EPA has worked with state and local governments to enhance wastewater security since 2001, and the majority of wastewater treatment works have conducted vulnerability assessments and implemented emergency response planning procedures.

However, wastewater treatment works have undertaken these activities, with guidance from EPA, on a voluntary basis, as nothing in current law requires wastewater treatment works to carry out specific security measures. H.R. 2868 closes this significant security gap and enacts mandatory security standards applicable to treatment works. EPA will establish security regulations and oversee their implementation to appropriately balance water quality and security goals.

Our Nation's wastewater treatment capacity consists of approximately 16,000 publicly owned wastewater treatment plants, 100,000 major pumping stations, 600,000 miles of sanitary sewers and another 200,000 miles of storm sewers, with a total value of more than $2 trillion. Taken together, the sanitary and storm sewers form an extensive network that runs near or beneath key buildings and roads, the heart of business and financial districts, and the downtown areas of major cities, and is contiguous to many communication and transportation networks.

Publicly owned treatment works also serve more than 200 million people, or about 70 percent of the Nation's total population, as well as approximately 27,000 commercial or industrial facilities, that rely on the treatment works to treat their wastewater. Significant damage to the Nation's wastewater facilities or collection systems could result in loss of life, catastrophic environmental damage to rivers, lakes, and wetlands, contamination of drinking water supplies, long-term public health impacts, destruction of fish and shellfish production, and disruption to commerce, the economy, and our Nation's normal way of life.

In the same light, certain wastewater treatment works throughout the United States utilize chemicals in their disinfectant processes, such as gaseous chlorine, that may pose a threat to public health or the environment if improperly released into the surrounding environment. While proper storage of and security for such chemicals on-site may reduce the potential risk of improper release, similar security-related issues in the shipment and use of potentially harmful chemicals must also be considered in relation to the overall security of the wastewater treatment works.

The ''Wastewater Treatment Security Works Act'' ensures that all large- and medium-sized wastewater treatment facilities—those that treat at least 2.5 million gallons of sewage per day—perform a nationally-consistent, threshold security assessment, and take proactive steps to reduce their overall vulnerability. For those facilities that possess sufficient quantities of potentially-dangerous chemicals, this legislation requires an assessment of whether ''inherently safer technologies'' can be implemented to reduce the overall risk posed by the facility; while enabling the facility to continue meeting its water quality obligations under the Clean Water Act.

Finally, this legislation authorizes $1 billion over 5 years in grants to publicly owned treatment works to carry out vulnerability assessments, site security and emergency response plans, and to implement measures to improve the overall security of the wastewater treatment facilities, as well as provide emergency response training to first responders and firefighters who may be called upon in the event of a terrorist act.

This legislation has been endorsed by the Nation's leading wastewater utility organizations, including the National Association of Clean Water Agencies, the California Association of Sanitation Agencies, and the American Public Works Association.

Mr. Chair, I would like to discuss certain sections of title III of the bill.

SECTION 301. SHORT TITLE

This section designates this title as the ''Wastewater Treatment Works Security Act of 2009''.

SEC. 302. WASTEWATER TREATMENT WORKS SECURITY

This section amends the Federal Water Pollution Control Act of 1972 to add a new section 222 to address the security of wastewater treatment works (hereinafter ''treatment works'') under the authority of the Administrator of EPA.

SECTION 222(A). ASSESSMENT OF TREATMENT WORKS VULNERABILITY AND IMPLEMENTATION OF SITE SECURITY AND EMERGENCY RESPONSE PLANS

Section 222(a) defines the new security-related obligations for treatment works required under this subsection, as well as the terms ''vulnerability assessment'', and ''site security plan''. Under section 222(a)(1), any treatment works with a treatment capacity of at least 2.5 million gallons per day (estimated by EPA to be a treatment works that serves a population of 25,000 or greater), or in the discretion of the Administrator, presents a security risk, is required to: (1) conduct a vulnerability assessment; (2) develop and implement a site security plan; and (3) develop an emergency response plan for the treatment works.

SECTION 222(B). RULEMAKING AND GUIDANCE DOCUMENTS

Section 222(b) directs the Administrator to conduct a rulemaking, to be completed no later than December 31, 2010, to: (1) establish risk-based performance standards for the security of a treatment works covered by this section; and (2) establish requirements and deadlines for each owner and operator of a treatment works to conduct (and periodically update) a vulnerability assessment, to develop (and periodically update) and implement a site security plan, to develop (and periodically revise) an emergency response plan, and to provide annual training for employees of the treatment works.

Section 222(b)(2) directs the Administrator, in carrying out the rulemaking under section 222(b), to provide for four risk-based tiers for treatment works (with tier one representing the highest degree of security risk), and to establish ''risk-based performance standards for site security plans and emergency response plans'' required under section 222(a). Under subsection (b)(2)(B), the Administrator is directed to assign (and reassign, when appropriate) treatment works into one of the four designated risk-based tiers, based on consideration of the size of the treatment works, the proximity of the treatment works to large population centers, the adverse impacts of an intentional act on the operations of the treatment works, critical infrastructure, public health, safety or the environment, and any other factor determined appropriate by the Administrator. Section 222(b)(2)(B)(iii) provides the Administrator authority to request information from the owner or operator of a treatment works necessary to determine the appropriate risk-based tier, and section 222(b)(2)(B)(iv) directs the Administrator to provide the treatment works with the reasons for the tier assignment.

Section 222(b)(2)(C) requires the Administrator to ensure that risk-based performance standards are consistent with the level of risk associated with the risk-based assignment for the treatment works, and take into account the risk-based performance standards outlined in the Chemical Facility Anti-Terrorism Standards (CFATS) of the DHS, contained in section 27.230 of title 6, Code of Federal Regulations.

Section 222(b)(3) directs the Administrator, in carrying out the rulemaking under section 222(b), to require any treatment works that ''possesses or plans to possess'' a designated amount of a substance of concern (as determined by the Administrator under section 222(c)) to include within its site security plan an assessment of ''methods to reduce the consequences of a chemical release from an intentional act'' at the treatment works. Section 222(b)(3)(A) defines such an assessment as one that reduces or eliminates the potential consequences of a release of a substance of concern from an intentional act, including: (1) the elimination or reduction of such substances through the use of alternate substance, formulations, or processes; (2) the modification of operations at the treatment works; and (3) the reduction or elimination of onsite handling of such substances through improvement of inventory control or chemical use efficiency.

Section 222(b)(3)(B) requires each treatment works that possesses or plans to possess a designated amount of a substance of concern to consider, in carrying out such an assessment, the potential impact of any method to reduce the consequences of a chemical release from an intentional act on the responsibilities of the treatment works to meet its effluent discharge requirements under the Clean Water Act, and to include relevant information on any proposed method, such as how implementation of the method could reduce the risks to human health or the environment, whether the method is feasible (as such term is defined by the Administrator), and the potential costs (both expenditures and savings) from implementation of the method.

Section 222(b)(3)(C) provides for mandatory implementation of a method to reduce the consequences of a chemical release from an intentional act for a treatment works that is assigned to one of the two highest risk-based tiers, and possesses or plans to possess a designated amount of a substance of concern. Section 222(b)(3)(C)(ii) authorizes the Administrator, or a State, in the case of a State with an approved program under section 402 of the Clean Water Act, to require the owner or operator of the treatment works to implement such a method, and includes a series of factors for the Administrator or State to consider in making such a determination. Section 222(b)(3)(D) provides a formal opportunity for the owner or operator of a treatment works to appeal the decision of the Administrator or a State that requires the implementation of such a method.

Section 222(b)(3)(E) authorizes the Administrator to address incomplete or late assessments of methods to reduce the consequences of a chemical release from an intentional act at the treatment works by an owner or operator of a treatment works.

Section 222(b)(3)(F) authorizes the Administrator to take action, in a State with an approved program under section 402 of the Clean Water Act, to determine whether a treatment works should be required to implement a method to reduce the consequences of a chemical release from an intentional act, and to compel the treatment works to implement such methods through an enforcement action, in the absence of State action.

Section 222(b)(4) and (5) directs the Administrator to consult with the States (with approved programs), the Secretary of Homeland Security and, as appropriate, other persons, in developing regulations under this subsection. Section 222(b)(6) requires the Administrator to ensure that regulations developed under this subsection are consistent with the goals and requirements of the Clean Water Act.

SECTION 222(C). SUBSTANCES OF CONCERN

Section 222(c) authorizes the Administrator, in consultation with the Secretary of Homeland Security, to designate any chemical substance as a substance of concern, and to establish, by rulemaking, a threshold quantity of such substance that, as a result of a release, is known to cause death, injury, or serious adverse impacts to human health or the environment. In carrying out this authority, the Administrator is required to take into account the list of ''Chemicals of Interest'', developed by the DHS, and published in appendix A to part 27 of title 6, Code of Federal Regulations.

SECTION 222(D). REVIEW OF VULNERABILITY ASSESSMENT AND SITE SECURITY PLAN

Section 222(d) requires an owner or operator of a treatment works covered by this section to submit a vulnerability assessment and site security plan to the Administrator for review in accordance with deadlines established by the Administrator. Section 222(d)(2) and (3) direct the Administrator to review such assessments and plans, and to either approve or disapprove such assessments and plans. Section 222(d)(3) and (4) establish criteria for the disapproval of a vulnerability assessment or site security plan, and requires the Administrator to provide the owner or operator of a treatment works with a written notification of any deficiency in the vulnerability assessment or site security plan, including guidance for correcting such deficiency and a timeline for resubmission of the assessment or plan.

SECTION 222(E). EMERGENCY RESPONSE PLAN

Section 222(e) establishes the requirements for an owner or operator of a treatment works to develop and, as appropriate, revise an emergency response plan that incorporates the results of the current vulnerability assessment and site security plan for the treatment works. Section 222(e)(2) requires the owner or operator to certify to the Administrator that an emergency response plan meeting the requirements of this section has been completed, and is appropriately updated. Section 222(e)(4) requires the owner or operator of a treatment works to provide appropriate information to any local emergency planning committee, local law enforcement, and local emergency response providers.

SECTION 222(F). ROLE OF EMPLOYEES

Section 222(f)(1) requires that a site security plan and emergency response plan identify the appropriate roles or responsibilities for employees and contractor employees of treatments works in carrying out the plans. Section 222(f)(2) requires the owner or operator of a treatment works to provide sufficient training, as determined by the Administrator, to employees and contractor employees in carrying out site security plans and emergency response plans.

SECTION 222(G). MAINTENANCE OF RECORDS

Section 222(g) requires that an owner or operator of a treatment works maintain an updated copy of its vulnerability assessment, site security plan, and emergency response plan on the premises of the treatment works.

SECTION 222(H). AUDIT; INSPECTION

Section 222(h) directs the Administrator to audit and inspect treatment works, as necessary, to determine compliance with this section, and authorizes access by the Administrator to the owners, operators, employees, contract employees, and, as applicable, employee representatives, to carry out this subsection.

SECTION 222(I). PROTECTION OF INFORMATION

Section 222(i) establishes requirements for the prohibition of public disclosure of protected information, as defined by this subsection, and authorizes the Administrator to prescribe by regulation or issue orders, as necessary, to prohibit the unauthorized disclosure of such information. Section 222(i)(2)(B) provides authority to facilitate the appropriate sharing of protected information with and among Federal, State, local, and tribal authorities, first responders, law enforcement officials, and appropriate treatment works personnel or employee representatives. Section 222(i)(4), (5) and (6) ensure that the requirements of this subsection not affect the implementation of other laws or the oversight authorities of Congressional committees. Section 222(i)(7) defines the term ''protected information''.

SECTION 222(J). VIOLATIONS

Section 222(j) provides criminal, civil, and administrative penalties for the violation of any requirement of this section, including any regulations promulgated pursuant to this section, consistent with the criminal, civil, and administrative penalties contained in section 309 of the Clean Water Act.

SECTION 222(K). REPORT TO CONGRESS

Section 222(k) directs the Administrator to report to Congress within three years of the date of enactment of the Wastewater Treatment Works Security Act of 2009, and every three years thereafter, on progress in achieving compliance with this section. Section 222(k)(3) provides that such reports be made publicly available.

SECTION 222(L). GRANTS FOR VULNERABILITY ASSESSMENTS, SECURITY ENHANCEMENTS, AND WORKER TRAINING

Section 222(l) authorizes Federal grants for the conduct of vulnerability assessments and the implementation of security enhancements and publicly-owned treatment works, and for security related training of employees or contractor employees of a treatment works and training of first responders and emergency response providers. Section 222(l)(2)(C) provides that grants made available under this Act not be used for personnel cost or operation or maintenance of facilities, equipment, or systems. Section 222(l)(2)(D) provides for a maximum 75 percent Federal share for grants made available under this Act.

SECTION 222(M). PREEMPTION

Section 222(m) provides that nothing in this section precludes or denies the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to a treatment works that is more stringent than a regulation, requirement, or standard of performance under this section.

SECTION 222(N). AUTHORIZATION OF APPROPRIATIONS

Section 222(n) authorizes to be appropriated to the Administrator $200 million for each of fiscal years 2010 through 2014 for making grants under section 222(l).

SECTION 222(O). RELATION TO CHEMICAL FACILITY SECURITY REQUIREMENTS

Section 222(o) provides that the requirements of Title XXI of the Homeland Security Act of 2002, section 550 of the Department of Homeland Security Appropriations Act, 2007, and the Chemical and Water Security Act of 2009, (and any regulations promulgated thereunder), do not apply to a treatment works, as such term is defined in section 212 of the Clean Water Act.

LEGISLATIVE HISTORY

In the 107th Congress, on October 10, 2001, the Subcommittee on Water Resources and Environment held a hearing on the security of infrastructure within the Subcommittee's jurisdiction, including issues related to the nation's network of wastewater infrastructure.

On July 22, 2002, then-Chairman DON YOUNG introduced H.R. 5169, the ''Wastewater Treatment Works Security Act of 2002''. On July 24, 2002, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote. H. Rept. 107–645. On October 7, 2002, the House passed H.R. 5169 by voice vote. No further action was taken on this legislation.

In the 108th Congress, on February 13, 2003, then-Chairman DON YOUNG introduced H.R. 866, the ''Wastewater Treatment Works Security Act of 2003''. On February 26, 2003, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote. H. Rept. 108–33. On May 7, 2003, the House passed H.R. 5169 by a rollcall vote of 413–2. No further action was taken on this legislation.

In the 111th Congress, on June 16, 2009, Water Resources and Environment Subcommittee Chairwoman EDDIE BERNICE JOHNSON introduced H.R. 2883, the ''Wastewater Treatment Works Security Act of 2009''.

Mr. DENT. Mr. Chairman, first, there has been considerable debate here today whether farmers and small agricultural retailers currently exempt from existing regulations will be exempt from the new regulations required by this legislation.

The short answer is: They will not. Section 2120 of this bill requires the Secretary to issue new regulations to replace the existing CFATS regulations. Nowhere in this bill does the Secretary have any authority to exempt certain individuals or classes from those regulations. Nowhere.

If the majority disagrees and would care to point to a particular provision that authorizes the Secretary to grant exemptions from the provisions, including the costly IST assessment and

implementation provisions, I would ask that they point to that provision.

At this time, I would like to yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Chairman, it is all about jobs today. This bill affects jobs and the economy. We are close to 9.8 percent unemployment in the manufacturing sector, and here we are going to put more, additional burdens on those who create jobs. If you don't have employers, you don't have employees.

I appreciate my agriculture members coming down here because it is not about the end users, it is about the producers of the chemicals. It is about the producers of the anhydrous. Those are the folks whose costs are going to go up.

Now I like to come down here and talk about the hypocrisy of this whole debate, especially on the Safe Drinking Water Act, because if it really was about security, and I talked about this in the Rules Committee, and no one has answered this question, on the health care bill, Mr. Chairman, your bill, page 1785, we say this: ''The financial and technical capability of an Indian Tribe, or Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.''

Your health care bill says if the Indian Tribe cannot safely run a plant, we are going to build you one anyway. We are not worried about safety and security.

Page 1785, a financial and technical capability of an Indian Tribe, shall be exempt even if they can't operate safely a water treatment plant. So what you are doing in the health care bill, exempting Indian tribes who don't know how to manage a refinery, you are giving them protections in this health care bill. But in this bill, municipal water plants pay more; private water plants pay more; refineries pay more. Indian tribes under your health care bill——

The Acting CHAIR. The time of the gentleman has expired.

Mr. DENT. I yield the gentleman an additional 30 seconds.

Mr. SHIMKUS. I would just say why would we exempt Indian tribes from the ability to prove that they can actually operate a water purification plant? Why would we do that? If safety and security is important, the whole premise of this bill, why would we exempt Indian tribes? Page 1785 of your bill in the health care reform. Three hundred pages on Indian health, not one page through the committee process. It is an abomination of the process.

Mr. DENT. Mr. Chairman, I think you just heard some very powerful arguments in opposition to this legislation. This issue is all about jobs. I want to say one thing. It is a darn good thing that the House of Representatives just a couple of hours ago passed an extension of unemployment benefits. Because of this legislation, people are going to need them. That said, people around this country are very scared of Washington right now. They are scared of the agenda, and they are scared of the national energy tax called cap-and-trade. They are afraid of the card check bill and the health care bill that will cost more than a trillion dollars. So is it any wonder that unemployment rates are going the way they are going.

But one thing about these IST assessments, and I feel we have to talk about this from a jobs standpoint, but contesting these IST assessments will be costly, too costly for most small businesses to afford.

Experts estimate that a simple, one ingredient substitution would take two persons 2 weeks to complete and cost between $10,000 and $40,000, and that is on the low end. A pharmaceutical pilot plant with about 12 products would take three to six persons up to 10 weeks to complete an assessment at a cost of $100,000 to $500,000.

Larger facilities with particularly hazardous chemicals, already regulated by OSHA, would require 8 to 10 people 6 months or more to complete at a cost of over a million dollars for the assessment. Fifty-nine percent of the facilities regulated under the current CFATS regulations that would be required to conduct these costly assessments employ 50 or fewer people. Mandating IST will be devastating to small businesses across America.

According to a California fertilizer manufacturer, eliminating the use of anhydrous ammonia and substituting it with urea can cost a 1,000 acre farm up to $15,000 per application. This would be a recurring cost passed on to the consumer.

On Friday, the Department of Labor is expected to revise the unemployment figures. Does anyone in this Chamber expect those numbers to go down? We hope they do, but I am afraid we know what the answer may be.

Ms. RICHARDSON. Mr. Chair, I rise today to express my strong support for the Chemical and Water Security Act of 2009. I would also like to thank Chairman OBERSTAR, Chairman WAXMAN, and my distinguished colleague on the Homeland Security Committee, Chairman THOMPSON, for their hard work in crafting this vital legislation.

I support this legislation because it will enhance the security of our nation's chemical, drinking water, and wastewater facilities and it lessens the vulnerability of our most critical sectors to a terrorist attack. Specifically, this legislation:

Protects our nation by making critical infrastructure more secure;

Helps my district by enhancing the security of its chemical, drinking water, and wastewater facilities; and

Helps our economy by providing greater protection to the nation's major job creating sectors and by providing incentives to spur production and technological innovation.

I also support H.R. 2868 because it contains a provision I offered that protects workers who identify and report violations affecting the safety and security of chemical facilities to management or regulatory authorities from retaliation and reprisal. When it comes to the security of our chemical, drinking water, and wastewater facilities, the employees who work in them are the ''First Preventers.'' We depend on them to be competent, vigilante, and proactive. We owe them the assurance that they will not be penalized for doing their jobs properly. That is why I am pleased the bill also incorporates a provision I offered requiring facility owners to certify in writing their knowledge of the protections provided whistleblowers and the Secretary's power to protect them.

Mr. Chair, eight years ago this September 11 terrorists attacked our country and inflicted incalculable damage to our people, economy, and national psyche. We responded to the horror and trauma of that day by resolving to honor the victims and heroes of 9–11 by doing all we can to protect our homeland and our people from any future attack.

There is a simple answer for those who question the timing or need for a comprehensive legislation to safeguard these facilities.

The poison gas leak at Union Carbide's Bhopal plant in 1984 that killed 10,000 people within 72 hours, and more than 25,000 people since, was an accident! Imagine the carnage that could result from an intentional act of terrorism or sabotage.

Mr. Chair, the chemical industry alone employs nearly a million Americans and it accounts for nearly $600 billion of the GDP. More than 70,000 industrial, consumer, and defense-related products—from plastics to fiber optics—are produced by the nation's chemical facilities.

The economic and strategic value of the chemical industry makes it an attractive target to terrorists because many chemicals, either in their base form or when combined with others, can cause significant harm to both humans and the environment if misused.

My congressional district alone abuts one of the nation's largest ports and is home to several major oil refineries, as well as gas treatment and petrochemical facilities. It is, as they say in the military, a ''target rich environment.''

So I am not willing to wait. The time has come for us to approve legislation that puts in place the necessary protections and authorizes the necessary resources to keep our chemical, wastewater, and drinking water facilities secure. This bill does that.

Chemical facilities determined by the Secretary to be at risk are required to conduct a Security Vulnerability Assessment (''SSV''). Based upon that assessment, the facility must then develop and implement a Site Security Plan (''SSP''), which is subject to review, approval, and inspection by the DHS Office of Chemical Facility Security.

The legislation also authorizes the DHS Secretary to require, where appropriate, that chemical facilities in the highest risk tiers implement ''methods to reduce the consequences of a terrorist attack'' by utilizing ''inherently safer technologies'' (IST). And it authorizes the Secretary to award $225 million in grants to provide technical assistance and funding to finance the capital costs incurred in transitioning to inherently safer technologies.

I am also pleased to note that facilities around the country have already begun taking

action to make their chemical processes safer. For example, in the 37th district, of which I am a proud representative, the Joint Water Pollution Control Plant in Carson, California, a wastewater treatment plant, switched from using chlorine gas to liquid bleach disinfection. This legislation is already spurring companies to make important changes that will keep our country and our communities safer.

Mr. Chair, I could go on but it suffices to state that this legislation is a balanced and pragmatic response to a critical security need. And again, I want to thank Chairman OBERSTAR, Chairman THOMPSON, and Chairman WAXMAN for their leadership in crafting this extraordinary bill.

I support the Chemical and Water Security Act and urge all members to do likewise.

The Acting CHAIR (Mr. KRATOVIL). All time for general debate has expired.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, as the designee of the chairman of the Committee on Homeland Security, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIERNEY) having assumed the chair, Mr. KRATOVIL, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1849, by the yeas and nays;

H.R. 3276, by the yeas and nays;

H. Res. 878, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

WORLD WAR I MEMORIAL AND CENTENNIAL ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1849, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 1849, as amended.

The vote was taken by electronic device, and there were—yeas 418, nays 1, not voting 14, as follows:

[Roll No. 862]

YEAS—418

Abercrombie
Ackerman
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—14

Aderholt
Brady (PA)
Capuano
Deal (GA)
Forbes
Gohmert
Johnson, Sam
Murphy, Patrick
Nadler (NY)
Nunes
Rogers (MI)
Sánchez, Linda T.
Stark
Stupak

□ 1740

Messrs. FLAKE and LOEBSACK changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3276, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 3276, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 17, not voting 16, as follows:

[Roll No. 863]

YEAS—400

Abercrombie
Ackerman
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Braley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—17

Broun (GA)
Campbell
Chaffetz
Conaway
Flake
Hensarling
Jordan (OH)
Kingston
Lamborn
Paul
Pence
Poe (TX)
Rooney
Royce
Sensenbrenner
Shadegg
Westmoreland

NOT VOTING—16

Aderholt
Bachus
Brady (PA)
Capuano
Deal (GA)
Ellison
Forbes
Gohmert
Johnson, Sam
Murphy, Patrick
Nadler (NY)
Nunes
Rogers (MI)
Sánchez, Linda T.
Stark
Stupak

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1806

Messrs. PENCE, LAMBORN, and WESTMORELAND changed their vote from ''aye'' to ''no.''

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOMENT OF SILENCE FOR THE VICTIMS OF VIOLENCE AT FORT HOOD

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen, I rise with the extraordinarily sad and wrenching news that 12 of our people at Fort Hood have been killed today by a gunman or more and 31 others were wounded.

President Obama called the incident a horrific outburst of violence, and he went on to say these are men and women who made the selfless and courageous decision to risk their lives in the service of our Nation. The President went on to say it's horrifying that they should come under fire at an Army base on American soil.

I know that all of us are extraordinarily saddened and shocked by this incident. Our hearts, our minds, our prayers go out to the families of all of those whose lives have been lost and our prayers for their wholeness and health go out to those who have been injured.

Now, Madam Speaker, I yield to Congressman CARTER in whose district Fort Hood is located.

Mr. CARTER. I thank the gentleman for yielding.

Madam Speaker, we have had a tragedy in my district. I am very sad to report that the latest report that I have received from Fort Hood, we have 12 Americans dead, 32 wounded. They have all been shipped to Scott & White Hospital in Temple, and they are calling for blood; so there are obviously some very serious wounds involved in the wounded.

There is one shooter that has been confirmed who has since died, but he has been confirmed, and there are two other people in custody.

We do not know the nature of this attack, but it is a serious attack on our warfighters. These are people at Fort Hood, most of whom have been deployed four times.

So it is a real tragedy that these families are losing loved ones, and I would hope that we could have a moment of silence not only for those who have died and those who are wounded but also for their families.

Mr. HOYER. Madam Speaker, I join Mr. CARTER in asking for this moment of silence. And as we do, we remember all of those in our Armed Forces, whether they are here in America, they are in uniform or in civilian service in the defense of our country.

Obviously, these brave souls were the objects as members of our Armed Forces. And as we rise in a moment of silence to them, we remember as well all of those brave men and women who are serving around the world to maintain peace, security, and freedom.

The SPEAKER. The Members and those in the gallery will please rise and observe a moment of silence in memory of the victims of violence at Fort Hood.

LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Mr. Speaker, I yield to the majority leader, the gentleman from Maryland, so that he may inform the House on what to expect about this weekend's schedule.

Mr. HOYER. I thank the gentleman for yielding.

Ladies and gentlemen of the House, as the House well knows, we are contemplating the consideration of the Health Care for All Americans Act on Saturday. We will be considering the

amendments on the chemical protection bill that we are now considering tomorrow. We will consider perhaps some other suspensions as well.

My expectation is that on Saturday we will convene at 9 o'clock in the morning. I expect to have five 1-minute speeches on each side, as we usually do on Friday and the end of the week. We will then go to the rule on the health care bill, and then it is my expectation we will have consideration of the health care bill and the Republican substitute.

It is my expectation that if we proceed apace and come to a vote and disposition on that piece of legislation, that we would then adjourn Saturday at whatever hour we complete our work and that the adjournment would be to the 16th of November, the Monday of the following week.

We will convene on the 16th at 6:30 p.m. and meet through Friday of that week. It is my expectation, as I have indicated, that we would be off the following week, which is Thanksgiving week.

That's my present plan, which oft go awry, as all of us know, but that is my present plan for the balance of the month.

Mr. CANTOR. I thank the gentleman.

I would just like to ask the gentleman for a point of clarification, our Members can count on a vote on final passage on the health care bill on Saturday and, upon having done that, can anticipate being able to leave sometime Saturday night or Sunday?

I yield.

Mr. HOYER. I thank the gentleman for yielding.

That would be my expectation. Again, I want to clarify and make sure that everybody understands it is our intent to finish the health care bill, but assuming that we finish the health care bill sometime Saturday, Saturday night, or early Sunday morning, it would be my expectation there would be no further business until the 16th.

Mr. CANTOR. I thank the gentleman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LARSEN of Washington). Without objection, 5-minute voting will continue.

There was no objection.

NATIONAL FAMILY LITERACY DAY

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 878.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 878.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Ms. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 864]

AYES—409

Abercrombie
Ackerman
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chaffetz
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
Delahunt
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hoekstra
Holden
Holt
Honda
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—24

Aderholt
Bachus
Brady (PA)
Brady (TX)
Capuano
Carter
Chandler
Conyers
Deal (GA)
DeGette
DeLauro
Forbes
Gohmert
Hodes
Hoyer
Johnson, Sam
Murphy, Patrick
Nadler (NY)
Nunes
Rogers (MI)
Sánchez, Linda T.
Stark
Stupak
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1750

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING MONICA RODRIGUEZ

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Madam Speaker, I rise today to honor Monica Rodriguez from El Monte, California. Monica was a wife, mother of three children, and 5 months pregnant. Monica went twice

to a hospital in El Monte with flu symptoms, including flu, fever, congestion, and cough. She was sent away with cough syrup. Days later, Monica was admitted into intensive care, but it was too late, and Monica passed away on October 25 due to complications from the H1N1 virus.

Monica was a pregnant woman with flu-like symptoms that should have set off alarm bells. Despite multiple visits to the hospital, she was denied treatment that could have saved her life. The Centers for Disease Control issued guidelines for health care providers that said, ''Pregnant women are at higher risk for severe complications and death from influenza, including both 2009 H1N1 influenza and seasonal influenza.'' If the El Monte hospital had followed these guidelines, her tragic death could have been avoided. Her husband, Jorge Gonzalez, wants others to know about his wife's death so that they can receive proper care.

In memory of Monica Rodriguez, I will introduce a resolution alerting people so no other person will needlessly die in this manner.

TRIBUTE TO THE 2009 EDINA GIRLS TENNIS TEAM

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Madam Speaker, I rise to pay tribute to the Edina High School girls tennis team who won the Minnesota 2–A State Championship just last week. Their final victory, a 6–1 triumph over a strong Elk River team, continued a string of dominance by the Edina program that has clearly become one of the most successful high school athletic programs in the entire State of Minnesota.

The Hornets' victory marked the 13th consecutive State tennis championship, a streak in which Edina has impressively won 248 of their past 249 dual matches. Led by coach Steve Paulsen, the Hornets finished the 2009 season with a record of 24–0 in dual matches.

To all of the student athletes, to the coaches and the parents, I offer my congratulations on a great accomplishment and for an impressive run of championships that is truly a tribute to everyone involved. The streak is still alive, and I am proud to represent a school and athletics program with such a longstanding commitment to success.

BRANDON'S LAW

(Mr. HARE asked and was given permission to address the House for 1 minute.)

Mr. HARE. Madam Speaker, I rise today to honor the life of Brandon Ballard of Taylor Ridge, Illinois, and to support testicular cancer education, the best medicine to fight the most common cancer in young men.

Madam Speaker, Brandon Ballard was a star high school basketball player with a champion's heart. Although Brandon had been active in sports and had annual physical exams, his cancer went undetected for 2 years. During his illness, Brandon dedicated himself to raising awareness about the warning signs of testicular cancer. One year ago this month, Brandon lost a hard-fought battle with testicular cancer at the young age of 19.

Madam Speaker, I stand here today not only to share with you Brandon's story but to recognize the efforts of Jim and Kristen Ballard to carry on Brandon's work. With the support of Senator Mike Jacobs, the Ballards lobbied the State assembly to require health classes to teach the signs and symptoms of testicular cancer and encourage screenings of male athletes. I am proud to say that their hard work paid off in August when Governor Pat Quinn signed Brandon's Law.

Madam Speaker, I commend the Ballard family for turning the tragic loss of their son into an opportunity to save the lives of young men.

AMERICANS OPPOSE SANCTUARY CITIES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, a recent Rasmussen Report shows that 68 percent of U.S. voters oppose the creation of sanctuary cities that give safe haven to illegal immigrants. And by a 5–2 margin, voters say sanctuary policies that protect illegal immigrants lead to an increase in crime.

Not only are sanctuary cities unpopular, they are illegal. They are specifically prohibited in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. But the Obama administration has not held any jurisdictions that adopt and maintain sanctuary policies responsible.

It's no wonder that a recent CNN/Opinion Research poll found that 58 percent of respondents disapproved of the President's handling of illegal immigration while only 36 percent approve. And his poll numbers aren't going to be helped if taxpayers subsidize illegal immigrants in the health care bill that we are considering this week.

Rather than flout the will of the American people, the White House should heed their advice and enforce our Nation's immigration laws.

HEALTH CARE REFORM IS GOOD FOR AMERICA

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Madam Speaker, this weekend this House will be the scene of a debate on the most important bill that has faced this Congress and this country since 1965, and that is health care, putting out country on a path where it should have been in the 20th century but catching up. The AARP has recently endorsed the bill because they know that it helps senior citizens. It will guarantee that the rates don't go up and the doughnut hole will be closed.

My local alternative paper, the Memphis Flyer, had a feature story, Young People and Health Insurance. Most young people don't have health insurance. They think they're invincible, they don't necessarily have jobs, and they can't stay on their parents' policy. When this bill passes, Madam Speaker, young people will be able to stay on their parents' health insurance policies until they're 27, filling a great void. Most parents don't like the idea of their children not having health insurance.

This will help the young and the old. It will help all of America. It is, indeed, America's bill. I will proudly vote for it.

□ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. DAHLKEMPER). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TAX TAX TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, there are brand new ways to tax people in this Federal health care bill. According to the Americans for Tax Reform, these new health care taxes will affect everyone. There are at least $700 billion in taxes in this takeover. It taxes small businesses; it taxes individuals.

For the first time in history, Congress is going to require individuals to buy something. If this health care bill passes, citizens will be required to buy government-approved health insurance. If they don't buy that government-approved health insurance, they are going to have to pay a criminal fine. That violates the Fifth Amendment of the United States Constitution, the due process clause.

If someone owns a small business, they will be required to pay about three-quarters of the cost of health insurance for their employees, whether they can afford it or not. Employees would be required to pay the rest of the

government-approved health insurance, whether they can afford it or not.

The government decides what a person can and cannot afford. Employers and employees who don't buy the government-approved insurance then have to pay this fine. This is a criminal penalty on citizens.

There is also a new tax hike on flexible spending accounts and health savings accounts. Right now people can put as much pretax money as they want into one of these accounts to help pay for insurance. These accounts will get a $1.3 billion new tax. The new government-run health care bill won't let anyone buy over-the-counter drugs out of these accounts. All of the medicines that have been made easier to buy without a prescription are now going to be taxed. Now why, Madam Speaker, would the government discourage people from taking care of themselves and having these health savings accounts?

The new health care bill also makes other legal tax deductions now illegal. This new tax is called the economic substance doctrine. Under this new health care bill, the IRS would be able to decide what a person was thinking when they bought something and they deducted it from their income tax as a business expense.

What that means is my friend Sammy Mahan in Baytown, Texas, buys a new wrecker truck for his tow truck business, and he writes it off on his income tax as a business expense. The IRS would be able to decide what he was really thinking when he bought that wrecker truck. If the IRS decides he bought that new wrecker just to go fishing in it, they won't allow the tax write-off. And the IRS decides what he was thinking, not what he says. In fact, the IRS is presumed to know what he was thinking when he lawfully wrote off that truck as a business expense. These thought police may not approve his lawful tax deduction. This new rule not only penalizes Sammy for his thoughts, it penalizes him for what the government thinks his thoughts were; what Sammy was really thinking when he bought that wrecker truck anyway and claimed that lawful tax.

Having tax thought police is strange enough, but what this is doing in a health care bill in the first place makes no sense. This ought to be in a separate piece of legislation to begin with. Do the taxacrats really think people will go out and have a heart valve replacement just to write it off their income tax?

But there's also more. There is a new tax on medical devices, a 2.5 percent tax on things like pacemakers and wheelchairs and hip replacement devices and new heart valves, lawful tax deductions for medical expenses that will be outlawed under this bill. So the tax thought police could not only deny a tax deduction for that heart valve replacement, but they could turn around and tax that new heart valve as well.

Madam Speaker, people are hurting out there in their pocketbooks and we can't afford a government-run health insurance policy at this time because it costs too much. The people can't afford all these new taxes and seniors can't afford to have a half trillion dollars cut out of their Medicare.

This government takeover of health care is just in time for Thanksgiving. Hopefully the American people won't be the turkey served up on the plate of government-run health care reform.

And that's just the way it is.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

(Mr. TOWNS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

LET'S HELP THE AFGHAN PEOPLE TO REJECT VIOLENT EXTREMISM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the last 8 years has taught us a very hard lesson. There is no military solution to Afghanistan. Escalating the war by sending in tens of thousands more troops will not defeat violent extremism in that country.

That's why I have urged President Obama to change the mission in Afghanistan. We must abandon the military-only strategy that has failed us and that we must begin to emphasize humanitarian aid, economic development, reconstruction, better health care and education. These are the tools that the Afghan people need to improve their lives and to reject extremism.

Nicholas Kristof of the New York Times wrote a column last week entitled, ''More Schools, Not Troops.'' His article makes the case for changing our mission very well. In his column, Kristof writes that investments in education, health and agriculture ''have a better record at stabilizing societies than military solutions, which have a pretty dismal record.''

Education is especially important, he says. He argues that ''schools are not a quick fix, but we have abundant evidence that they can, over time, transform countries.''

He gave Pakistan and Bangladesh as examples of that. The United States has spent $15 billion in Pakistan, Madam Speaker, since 9/11, mostly on military support. Yet Pakistan is more unstable than ever and al Qaeda has found a home there.

Meanwhile, Bangladesh, once a part of Pakistan, has made major investments in education, especially for girls. This has spurred economic growth, which has helped keep al Qaeda out of that country.

Kristof also writes that ''when I travel in Pakistan, I see evidence that one group, the extremists, believes in the transformative power of education. They provide free schooling and often free meals for students. They offer scholarships for the best pupils. What I don't see is similar numbers of American-backed schools. It breaks my heart that we don't invest in schools as much as medieval, misogynist extremists.''

He then goes on to say that ''for roughly the same cost as stationing 40,000 troops in Afghanistan for 1 year, we could educate the great majority of the 75 million children worldwide who are not getting even a primary education. Such a vast global education campaign would reduce poverty, cut birth rates, improve America's image in the world, promote stability and chip away at extremism.''

Madam Speaker, I hope that President Obama will keep this in mind as he reviews his options on Afghanistan and makes his decisions in the coming weeks. America simply cannot afford to rely on our military power alone, because that strategy plays right into the hands of the extremists. Our heavy military footprint is feeding the insurgency in Afghanistan, not weakening it.

By changing the mission to emphasize education and the other tools that can give the Afghan people a real stake in peace, we can stop violent extremism in its tracks. And we can keep our troops safer and build a more peaceful world for our children and our grandchildren.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. HASTINGS) is recognized for 5 minutes.

Mr. HASTINGS of Washington. Madam Speaker, the Democrat health bill is not about lowering costs or making health care more affordable, it's about government control and higher spending. It's about a government takeover of our health care system. It follows that it's about the Federal Government deciding how, where and when you get your health care.

At its most basic, the bill creates a government-run health insurance system that will end private health insurance options and, in doing so, will force Americans to purchase coverage only from a government-controlled program. The Federal Government would therefore decide which health care plans are acceptable. A Federal commissioner would decide which health care benefits are offered and how much is to be charged for those benefits. The proposed Medicare cuts would eliminate options for seniors and place recipients under a Medicare without

choices, choices like the current Medicare Advantage program.

In page after page of this massive bill, Federal health programs are expanded while private health care is restricted. In section after section, personal health care choices dwindle, and Federal control over decisions that should be made by you and your doctor increase.

One of the most striking examples, Madam Speaker, begins on page 481. The Democrat bill arbitrarily bars doctors from opening new doctor-owned hospitals, including the 124 hospitals that are currently under construction, and it severely restricts the existing 235 doctor-owned hospitals like the Wenatchee Valley Medical Center in my district from expanding their services.

The Wenatchee Valley Medical Center is a top-rated hospital that serves a rural underserved area. It was founded in 1940 by three doctors and today is owned by 150 doctors, each with an equal share. The medical center employs 1,500 people; serves a population of a quarter of a million people in an area the size of the State of Maryland; and treats 150,000 patients a year, half of whom are Medicare and Medicaid recipients.

Democrats, though, have decided that doctors cannot own hospitals regardless of the quality of care or degree of need. Under the Democrat bill, doctor-owned hospitals would face unprecedented reporting requirements, punishing new restrictions and strict limitations on their ability to expand. In fact, with the exception of a small handful of facilities selected by Democrat leaders, hospitals that are owned by doctors are barred from growing, barred from adding even a single hospital bed ever.

Madam Speaker, something is very, very wrong when this Congress is blocking access to health care, banning new hospitals and blocking the growth of top-quality facilities because they are simply doctor owned. But now the position of Democrats in charge of writing health policy in this House is very, very clear: They want to outlaw all doctor-owned hospitals, period.

Madam Speaker, we are headed down a very dangerous road when the Federal Government is getting in the business of deciding who can and who cannot own a hospital. But I am convinced that this is only the start. A Democrat Ways and Means subcommittee chairman was quoted this week as saying, ''Get your toe in, get your knee in, get your shoulder in, and pretty soon you're in the room.'' This is a blunt admission that if Democrats succeed with this government takeover, those in Washington, D.C. will already have bigger plans to seize even more control of every American's health care.

Madam Speaker, I don't think that's where America wants to go. There is a better solution, and it doesn't involve penalizing hospitals, raising taxes or cutting Medicare. The plan I support focuses on lowering costs by expanding health care choices and tools to help families save, making it easier for small businesses to afford and offer health care; ending lawsuit abuse; and, Madam Speaker, more importantly, protecting the doctor-patient relationship from government intrusion.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Madam Speaker, we have been waiting for 10 months for the Republican health care plan. All we hear is the Party of No—no, no, no; go slow; don't do anything. That's all we've heard. But, finally, they came out with a plan, and I thought we ought to take it seriously and read it, so I did.

□ 1830

Sadly, the proposal from my Republican colleagues was not worth the wait, and CBO agrees.

The Congressional Budget Office indicated that the Republican bill will not—will not—significantly decrease the ranks of the uninsured. Instead, under the Republican proposal, the ranks of the uninsured will decrease by only 3 million people, leaving 52 million people without coverage.

Contrast that with the Democratic proposal, which covers 96 percent of all Americans.

The Republican proposal would not address the ability of insurance companies to exclude individuals based upon preexisting conditions. According to the Republican leadership, they purposely failed to address this issue because it supposedly cost too much.

The Democratic proposal would prohibit insurers from excluding individuals from purchasing health insurance based on preexisting conditions by 2013.

The Republican proposal would allow insurance companies to sell insurance across State lines. Sounds like a good idea. But most experts agree that that would create a ''race to the bottom,'' where insurers will set up shops in States with the fewest consumer protections.

Contrast that with the Democratic proposal, which will allow insurance companies to sell insurance across State lines so long as the States involved have set up interstate compacts. Under these interstate compacts, participating States would ensure consumer protections would be followed and monitored at all times.

Now, the Republicans got this one pretty close to right. They will allow dependents to remain on their parents' insurance until they are age 26.

Contrast that with the Democratic proposal, which keeps them on until age 27. So they copied us at least on that point.

The Republican proposal will cut the deficit by $68 billion over the next 10 years. Sounds great, right?

Contrast this with the Democratic proposal, which will cut the deficit by $104 billion over the next 10 years. For the Republicans who sound off about fiscal responsibility all the time, the Democratic proposal is clearly the more responsible for deficit reduction.

The Republican plan purports to end ''junk lawsuits.'' However, the focus is solely on capping certain damages for pain and suffering. This is an old approach, and it will help insurance companies flaunt State consumer protection laws.

The Democratic proposal, on the other hand, would ensure providers are accountable for providing quality care by developing payment policies that have quality as a central tenet of reimbursement. The Democratic proposal seeks to recognize the autonomy of States.

The CBO found that the Republican plan would have virtually no effect on reducing premiums in the large group market in which most Americans are involved, where most people purchase their health insurance.

Contrast this with the Democratic proposal that seeks to increase transparency with regard to insurance premium increases and decrease the amount insurers can dedicate to profits.

The Democratic proposal ends the antitrust exemption for insurers, which has caused a significant lack of competition in the insurance marketplace whereby one or two insurers provide virtually all of the coverage for enrollees in some markets. This is focused insurance reform rather than business as usual, which the Republicans seek to promote.

The Republican plan was introduced to the world on November 4, 2009, after being slapped together because they realized that something was going to happen out here and they had no alternative to saying no. It has all the failures I have described relative to the Democratic proposal.

Contrast this with what has been a deliberative, thoughtful process that has created a bill that has been reported out of three committees and is at the precipice of enacting the most far-reaching, consequential health reform in a century.

The American people have been waiting for 100 years. They got the Republican proposal a day or so ago, and it is totally inadequate. Despite claims of my Republican colleagues to the contrary, in all aspects, the Democratic proposal is simply better. It will provide universal coverage, and I hope that the Republicans can see the wisdom of voting for it this Saturday.

It provides nearly universal coverage, deficit reduction, and reforms designed to effectuate cost control over the next decade.

My Republican colleagues have tunnel vision and are focused on what they believe to be the one positive about their bill: it costs less than the Democratic proposal. Well, it still costs $8 billion, and insures virtually no one according to multiple media outlets as well as the CBO.

The Republican plan ensures that insurance companies maintain the status quo in the insurance market, and provides no consumer protections. Sometimes, you get what you pay for.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO DANNY ROY PRICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. ROE) is recognized for 5 minutes.

Mr. ROE of Tennessee. Madam Speaker, I rise today to pay tribute to Danny Roy Price, who passed away in October at the age of 69. Danny was my most dedicated volunteer, a trusted staff member; but, most importantly, he was my friend. He dedicated his life to his Lord and to the service of others.

There are literally countless stories of Danny's sense of duty and commitment to service. He served our country in the U.S. Army; and because of that, he had a strong connection to every man and woman who served our country.

His wife, Carol, spoke of the day he helped a veteran and his wife receive benefits to which they were entitled but had never received. When Danny informed them their benefits had been approved, they began to tear up and weep. Carol said that when Danny returned home that evening, he told her the story and he too began to weep. I am incredibly proud to have had a person like him serving east Tennessee.

In 2007, Danny was named Tennessee's Statesman of the Year by the Tennessee House of Representatives. It was a fitting tribute to Danny, whose incredible attitude and passion I saw on display time and time again during my campaign during 2008 and as we traveled throughout the district this past year. Everywhere Danny went, he was a statesman, greeted and loved by everyone whose life he touched. He never wanted the credit. He only wanted a sense of satisfaction from knowing the job that he had done had been done right.

On the last day I shared with Danny, we had a full day of meetings in Bull's Gap, Gatlinburg, Morristown, Knoxville, and Greeneville, Tennessee, with a variety of doctors and local businessmen and businesswomen.

But it wasn't out of the ordinary for Danny and me. We finished up, and Danny told me, Phil, we had a great day. And it was a good day. To Danny, a good day wasn't getting the personal accolades. A good day was traveling up and down the district, getting to know the people, and learning about how he could help them.

At his eulogy, Danny's pastor of Hope Community Church in Rogersville, Tennessee, Rip Noble, talked of Danny's service to his Lord, Jesus Christ. Danny wanted others to experience the relationship he had with his Lord, so he constantly invited those he met to come worship with him. And then he would make sure that those people were welcomed into the service, first by himself, and then by the pastor.

When regular members hadn't attended in a while, Danny would call them and make sure that everything was all right and invite them back. Indeed, in large part due to Danny's efforts, the church has over 500 members, after starting just 5 years ago.

Danny is survived by his wife, Carol; his children, Jennifer and Brent Price; his granddaughter, Neyla Price; his brothers, Admiral Price and Keith Price; and his sister, Judy.

I extend our deepest condolences to the family for their loss, and hope they can find comfort in the knowledge that Danny was an extraordinary individual.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BISHOP) is recognized for 5 minutes.

(Mr. BISHOP of New York addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PROS AND CONS OF HEALTH CARE REFORM PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

Mr. GOODLATTE. Madam Speaker, I rise in opposition to the health care reform bill offered by Speaker PELOSI and the Democratic leadership, which we anticipate will be voted on possibly before the end of this week, and in support of the commonsense, practical alternative offered by Congressman JOHN BOEHNER, the Republican leader in the House.

Madam Speaker, this legislation offered by Speaker PELOSI is over 2,000 pages long and contains about 400,000 words. To give you an idea of the magnitude of this government takeover of the health care system in the United States, this legislation uses the word ''shall'' 3,425 times. When you see the word ''shall'' in legislation, you should read a mandate, a requirement, that the government is requiring somebody to do something to comply with what people here in Washington know best, not in terms of what people know is best for themselves. This legislation contains that word 3,425 times. It is truly a remarkable, complex government takeover.

In the original bill offered earlier this year, which was 1,000 pages long, there was the creation of 53 new Federal Government agencies and programs. In the new improved revised version, there are now 111 Federal Government agencies and programs contained in this legislation, which will cost the American taxpayers and our senior citizens more than $1.1 trillion. That is the official government estimate. There are many health care experts who say that the implementation of this legislation will cost far, far more.

As an example, many have pointed to the projected cost of Medicare when it was enacted in 1965. It was projected that it would cost $10 billion to $12 billion 25 years later; but by the end of the 1980s, Medicare was actually costing the American taxpayers more than $100 billion. In fact, today it costs more than $400 billion per year; and the Speaker's proposal says, well, let's take out of that $400 billion per year. Let's take about $40 billion a year, or 10 percent of that, and divert it to other new government programs.

Well, Madam Speaker, the problem with that is that the Medicare program today is faced with enormous challenges. The projected unfunded liability for Medicare over the lifetime of the average American today is more than $17 trillion, here at a time when starting next year senior citizens will increase in their numbers dramatically because the baby boomers, those born in the years after World War II and up until the early 1960s, will be retiring, will be reaching eligibility age for Medicare, and year after year after year the number of Medicare-eligible senior citizens will increase dramatically.

At the same time that will be occurring, this Congress is suggesting that it will be okay to take $400 billion out of the Medicare program to spend on an entirely new health care program that is projected to cost $1.1 trillion over 10 years, and I suggest will cost far more than that. So Medicare is going to be jeopardized by this legislation, and senior citizens across this country are aware of that.

They certainly were aware of it in Virginia this year, my home State, when they turned out on Tuesday in very large numbers to send a message to Washington that this health care proposal and other dramatic government takeovers of sectors of our economy is unacceptable and it resulted in a sweep across the elections in Virginia. And in the only two States in the country where there were Governors races up this year, New Jersey and Virginia, Democratic Governors were replaced by Republican Governors. People are looking to Washington.

There is a story in today's New York Times entitled ''Democrats to Use Election to Push Agenda in Congress.'' Well, good luck with that, because I can tell you that the people who turned out at the polls in Virginia were not asking for this agenda to be pushed forward as a result of what they have been seeing going on in Washington, D.C. Instead, they want commonsense, bipartisan reforms of health care.

Health care is in need of reform. It costs too much, and not enough Americans receive it. The Republican alternative provides for that. The Democratic alternative does not.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REASONS TO LEAVE AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, this morning I was honored to go with five other Members, three Democrats and three Republicans, to have breakfast at the Pentagon with Secretary of Defense Robert Gates. The Secretary is a kind man and this was a very nice thing for him to do. I have great respect for Secretary Gates.

The purpose of the breakfast was to discuss the situation in Afghanistan. When I got this invitation, I wondered if I should go, since I have been very much opposed to our war there. However, I decided that the only right and fair thing to do was to go listen to what he had to say.

Unfortunately, I still believe that what we are doing in Afghanistan is a horrendous waste that we cannot afford. I also believe that Afghanistan is no realistic threat to us, unless our war there continues to anger so many people around the world.

George C. Wilson, military columnist for Congress Daily, wrote recently: ''The American military's mission to pacify the 40,000 tiny villages in Afghanistan will look like mission impossible, especially if our bombings keep killing Afghan civilians and infuriating the ones who survive.''

General Petraeus said this summer we should not forget that Afghanistan has been known as the ''graveyard of empires.''

Congressional Quarterly reported on September 17 that members of both parties were ''fretting openly about a lack of progress in the conflict.''

As much as Americans love our troops, we need to realize that the Defense Department is not just a military organization. It is also the world's largest bureaucracy. Every gigantic bureaucracy always wants to expand its mission and frequently exaggerates its challenges so it can get more money and personnel.

The Taliban guerillas have almost no money, and a top U.N. antiterrorism official said recently that al Qaeda is having ''difficulty in maintaining credibility.''

National defense is the most legitimate function of our Federal Government. However, that does not mean Congress should automatically or blindly approve the Pentagon's every request or never criticize its waste.

Much of what we are doing in Afghanistan is of a civic, charitable or governmental nature, like building schools and teaching agribusiness. But the Defense Department should not be the ''Department of Foreign Aid,'' or much of our military primarily a very large version of the Peace Corps.

In March, the President promised a ''dramatic increase'' in our effort in Afghanistan, including ''agricultural specialists and educators, engineers and lawyers.'' Why, when we are $12 trillion in debt, are we spending mega-billions in Afghanistan doing practically everything for them? We are spending money we do not have on a very unnecessary war and jeopardizing our own future in the process.

Many people think that all conservatives support this war. Well, I believe that there are many millions of conservatives who do not and who want us to bring our troops home, the sooner the better. In fact, this war goes very much against traditional conservatism.

When I was in high school, I worked as a bag boy at an A&P grocery store making $1.10 an hour. I sent my first paycheck, $19 and some cents, as a contribution to the Barry Goldwater campaign. I am still one of the most conservative Members of Congress.

But this war has required huge deficit spending, almost half a trillion in war and war-related costs for Afghanistan. Fiscal conservatives should be the people most upset about this. This war has spent mega-billions in foreign aid, because probably at least half of what we have done and are doing there is of a civic or charitable nature. Traditional conservatives have been the strongest opponents of massive foreign aid.

□ 1845

We went into the wars in Iraq and Afghanistan under U.N. resolutions, yet conservatives have traditionally been the biggest critics of the U.N. Conservatives have traditionally been the biggest opponents of world government because it is too elitist and arrogant and too far removed from control by the people. We should not now support what is essentially world government just because it is being run by our military.

I am a veteran and I am very pro military, but I am for national defense, not international defense. I know that the leaders of Afghanistan want us to keep spending hundreds of billions there, but we cannot afford it. We cannot afford it economically, and as far as I am concerned, it is not worth one more American life.

I know that when leaders of the Defense Department and the State Department and the National Security Council all get together in their meetings, that all of the pressures are on getting involved or staying involved in just about every military, political or ethnic dispute all around the world. I know that they want to be considered as great world statesmen, but 8 years in Afghanistan is not only enough, it is far too long. It is time, Madam Speaker, to come home. It is time to start putting our own people and our own country first once again.

FIGHTING FOR DEMOCRACY AND HUMAN RIGHTS IN CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I had the privilege a few days ago to speak by telephone with one of the great heroes that fight for democracy and human rights in Cuba, Jorge Luis Garcia Perez, ''Antunez.'' He is in the city of Placetas in Cuba. His house is surrounded by thugs of the dictatorship. He is continuously harassed, often detained, has spent 17 years as a political prisoner, and was recently released. Yet he continues his fight, peacefully, nonviolently, against the totalitarian system in Cuba, in that island that has been forgotten by the world, and yet its people continue to suffer under the yoke of a brutal, totalitarian, nightmarish regime led by a dictator who is infirm now, he is sick. By virtue of that, he has turned over some titles, titles of power to his brother, but yet he retains, Fidel Castro, retains absolute personal power, total power in that totalitarian fiefdom.

His brother receives visitors, heads of state and has some titles of power, but be not mistaken, the totalitarian power remains in the hands of Fidel Castro, who, for example, is the one that orders that heroes like Antunez be detained or released, that heroes such as Oscar Elias Biscet or Rolando Arroyo or Pedro Arguelles Moran or Normando Hernandez or Ariel Sigler Amaya or Librado Linares or Horacio Pina or Ricardo Gonzalez Alfonso or Hector Maceda or Felix Navarro or Rafael Ibarra and countless others be retained in the gulag being tortured simply because those heroes support the ability for the Cuban people to have the rights, for example, that the American people, or free people throughout the world have.

Jorge Luis Garcia Perez told me, when I spoke to him on the phone about the fact that his wife's brother, his wife is Iris Perez Aguilera, and she is also a fantastic, formidable freedom fighter. Her brother, Mario Perez Aguilera, is in the gulag being tortured, and is being denied access, visits by his family. In other words, Iris cannot visit her brother who is in horrible physical condition. We don't know how gravely ill, but we know he is very ill, and he is being denied access. His family cannot visit them.

So I told Antunez that I would come to this floor and use the great privilege

given to me by my constituents to tell the world about the brutality that Mario Perez Aguilera, that political prisoner, and the many others, that they are facing day in and day out, and the added inhumanity of not being able to be seen by their family members.

The island that the world ignores. And what is most tragic is that it is 90 miles from our shores and for over 50 years, it has been in the grasp of a demented despot who orders such actions as the ones I have discussed this evening.

So I will continue to denounce the brutality, the inhumanity, and I will also continue to remind the world that despite that brutality, Cuba will soon be free.

To be continued.

NO FEDERAL FUNDING FOR ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Madam Speaker, there was a wonderful gathering in Washington today of thousands of people from all over the country. Many of those people held up signs that said Abortion is Not Health Care. The American public is more intelligent than those in charge in this House.

Pro-life Members here in the House are continuing to stand up and speak out for the unborn, and we will, until we defeat this bill or stop Federal funds from being used for abortions through this bill. Pro-life Members have offered amendments to the majority's original health care plan, H.R. 3200, to permanently exclude Federal funding of abortion. All of these amendments were rejected by the majority. Minority whip CANTOR's amendment to stop health care from funding abortion was rejected in the Ways and Means Committee on July 16, 2009. Representative SOUDER's amendment to stop abortion funding was rejected by the majority in the Education and Labor Committee on July 17, 2009.

Democrat Representative BART STUPAK and Republican Representative JOE PITTS offered another amendment to stop abortion funding in Energy and Commerce, and the majority rejected it on July 30, 2009. The reasons given by the majority for rejecting these amendments was that they were not needed as there was no abortion funding in the bill.

Now the contrast to that is the Republican substitute which will be offered has a permanent, government-wide Hyde amendment, meaning unequivocally, no Federal funds can be used for abortion anywhere in any bill that passes. Yet despite claims from the majority that abortion funding was not in the bill, the Energy and Commerce Committee voted on July 31, 2009, to include the Capps amendment to explicitly include abortion funding in the health care bill.

Recently, Speaker PELOSI unveiled H.R. 3962, her 2,000 page $1.3 trillion government takeover of health care. This bill also includes the Capps amendment, which will increase the number of elective abortions and gut the well-established government policy that prevents Federal funds from being used to pay for elective abortion known as the Hyde amendment.

Before the Hyde amendment was passed in 1976, Medicaid funded almost 300,000 abortions. In contrast, the Republican substitute again has a permanent government-wide Hyde amendment, meaning unequivocally, no Federal funds for abortion anywhere.

Section 222 of H.R. 3962 permits Federal funds to be used for abortion in the government insurance plan.

Section 4(a) refers to elective abortion procedures that are otherwise prohibited from receiving Federal funds in other government programs due to current Hyde amendment policies, but cannot be prohibited in the government-run public insurance plan.

Supporters of the bill assert that only private funds will be used to fund abortion in the government-run public insurance plan. This is not true. The bill places individual premium payments for the government-run public insurance plan into a Federal treasury account that may be used to pay for abortions. The bill also federally subsidizes private insurance plans that cover abortion in the government-run exchange.

Let there be no doubt that Pelosi's plan explicitly authorizes the government-run public insurance plan to pay for elective abortions and subsidizes private plans on the government-run exchange that cover elective abortion. Despite assurance from the majority that something would be done to correct this, the manager's amendment for H.R. 3962 does not contain any language regarding abortion funding.

The proposal outlined by Representative BRAD ELLSWORTH of Indiana yesterday falls short of addressing these issues. In his plan, the government-run public insurance plan would still cover abortion, but would have to contract with private contractors to carry out the administrative functions related to paying for elective abortion. Rather than reducing the number of abortions, the majority seems content with overseeing legislation to create the largest expansion of abortion since Roe v. Wade. This is unacceptable.

Pro-life Members on both sides of the aisle want the opportunity to vote on the Stupak-Pitts amendment to apply the Hyde amendment and exclude the abortion funding in Pelosi's plan. The American people understand this. We should not be using our Federal funding to kill innocent life.

HEALTH CARE RALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Madam Speaker, an extraordinary thing happened here today, right out here down the hill. There were tens of thousands of people that came out on very short notice. They came out, and these were not the super wealthy. These weren't the Wall Street folks that if you will check, give four to one to Democrats over Republicans. These people didn't care about party at all. They were concerned about the America that they knew, an America where people were given a chance to succeed and a chance to fail. Because as people far more wise than I am have noted over the years, any government that can take away your chance to fail has taken away your chance to succeed.

So people came out on very short notice. These were working people. You could see these were not people of leisure. These were people who had jobs, but they felt like this was something so critical they had to come, make their voices heard. You see them around offices all over the Capitol Hill area.

□ 1900

It was immensely moving. And the way the people all said the pledge to the flag at the start and honored the prayer as it was said to start the proceedings. And I don't know that I have ever heard a group sing the National Anthem with such fervor as a group. It was immensely touching because the people were up here to let their voices be heard and to let people know that the government does not need to take over 18 percent of this country's economy. Haven't we messed up the car companies enough? Haven't we messed up the banks and the lenders and the housing market enough that we're not satisfied yet until we take over 18 percent of the world's economy and muck it up as well? Do we really have to meddle and take over that kind of thing?

The role of the government should be as a referee, not as a player. We shouldn't be out there taking over businesses. You want to speed up the demise of a country, then let the government start becoming the player. Now, the Soviet Union was brutal enough and totalitarian enough. They were able to make a socialist form of government last for 70 years, as a record. Extraordinary. But they were brutal and totalitarian enough, they could force it that far. We won't last that long, not when we've moved the government in charge of everything.

Under the bill—I haven't gotten through the full bill, but I have seen some things that are staggering. I do remember hearing a number of our Nation's leaders saying that there was no way Federal dollars would be paying for abortion, so let me just read straight from page 110, subsection B, titled, Abortions for Which Public Funding is Allowed. And I'm reading the quote from page 110: The services described in this subparagraph are

abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted.

Then it goes on and says, Based on the laws in effect of the date that is 6 months before the beginning of the plan year involved—yeah, right—no money there will be used for abortions, and then there it is in black and white.

We were told that if you liked your plan, you're going to get to keep it. And yet you could go over here—actually, that's an easy section to find. You're not going to be keeping it because it says here—and this is on page 91. This says, Protecting the Choice to Keep Current Coverage. The number one limitation on keeping your insurance, the individual health insurance issuer offering such coverage does not enroll any individual in such coverage. The second limitation is the issuer does not change any of its terms or conditions. Good grief. You're going to add beneficiaries to every policy, you're going to change terms and conditions. It turns out that wasn't true either.

It is time to be true and faithful in this job to the American people and the job for which they sent us here. It is time to honor the Constitution.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SESTAK) is recognized for 5 minutes.

(Mr. SESTAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. CHU) is recognized for 5 minutes.

(Ms. CHU addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. DEAL) is recognized for 5 minutes.

(Mr. DEAL of Georgia addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. REHBERG) is recognized for 5 minutes.

(Mr. REHBERG addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ABORTION AND THE DEMOCRAT HEALTH CARE BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from New Jersey (Mr. SMITH) is recognized for 60 minutes as the designee of the minority leader.

Mr. SMITH of New Jersey. Madam Speaker, even though reputable polls consistently show that public funding of abortion is opposed by a supermajority of Americans, some 67 percent, the multibillion-dollar abortion industry, its lobbyists and friends in Congress are today demanding that the two massive new government programs created by the Democratic leadership's so-called ''health care reform'' bill force Americans to facilitate and fund the killing of unborn children by abortion.

Anyone who tells you otherwise—and I appreciate the gentleman from Texas pointing out the text. It clearly states it. Anyone who tells you otherwise that public funding for abortion on demand is not in the pending legislation is either seriously misinformed or simply not telling the truth.

Americans do want to know up front what's in this bill. No games. No brinksmanship. Americans want and the public deserves total transparency and truth in legislating.

Madam Speaker, despite the fact that in 2009 we know more and understand more about the magnificent world of unborn children than ever before—the fact that these babies move inside the womb and stretch and do somersaults and kick, they wake and sleep, believe it or not—and it is true, they have a waking and sleeping cycle. The fact that beneficial prenatal health care interventions, including microsurgery, can be performed in utero, inside the womb, blood transfusions inside the womb, the fact that these children can feel excruciating physical pain before birth, including the pain deliberately inflicted by abortionists—I would note, parenthetically, that I authored the Unborn Child Pain Awareness Act, which got 250 votes in a bipartisan vote a couple of years ago. And we know for a fact that at least at 20 weeks gestation, unborn children feel excruciating pain up to four times what everyone else after birth feels because the pain receptors are very close to the skin. And we do believe that these children feel pain even earlier than the 20th week. Despite all of this, President Obama and the Democratic leadership are on a fast track to compel, force, mandate, and coerce public funding for abortions.

Madam Speaker, pro-life Americans want no role or complicity in this assault on the weakest and the most vulnerable. Frankly, Madam Speaker, it is time to face an inconvenient truth—abortion is violence against children, and it exploits and harms women.

There has been study after study that shows that women who procure abortions experience immediate relief followed by very serious psychological and deleterious consequences to them. And the younger they are, it appears, based on the empirical data, the more egregious the pain and suffering and the agony endured by these young women.

New Zealand did a study in 2006, a very comprehensive study, and found that 78.6 percent of the 15- to 18-year-old girls who had abortions displayed symptoms of major depression compared to 31 percent of their peers. Twenty-seven percent of the 21- to 25-year-old women who had abortions had suicidal idealization compared to 8 percent of those who did not have abortions. Abortion hurts women.

I would remind my colleagues that organizations like the Silent No More Campaign, run so admirably and courageously by people like Dr. Alveda King, the niece of Dr. Martin Luther King, a woman who had two abortions and had profound, profound psychological problems from that but now knows reconciliation and hope again, Silent No More is made up exclusively of women who have had abortions. Dr. King has said that her uncle's dream, how does it survive if we murder the children? And then she went on to say the other victim is and always will be the woman.

Time magazine, and others, has finally reported on another little known fact—abortion adversely affects subsequent children born to women who abort. Recent studies have indicated that the risks of preterm birth goes up 36 percent after one abortion, and a staggering 93 percent after two or more abortions. Similarly, the risk of subsequent children being born with low birth weight increases by 36 percent after one abortion and 72 percent after two or more.

The health consequences to subsequent children born to women who abort is deeply troubling and largely unrecognized and underreported upon. Thus, abortion not only kills babies and wounds women, it directly injures subsequent children. And as we all know, prematurity is one of the leading causes of disabilities in children.

As you know better than I, Madam Speaker, Congress will vote as early as Saturday on the health care restructuring bill, H.R. 3962, and it includes highly deceptive policy language that will massively increase the number of

children killed and mothers wounded by abortion. Let's be clear and unambiguous, both the public option and the program establishing affordability credits authorize public funding and facilitation of abortion on demand, which means, of course, that the number of children who will be forced to suffer unspeakable agony of abortion methods including dismemberment, decapitation, starvation—people say, How does RU46 work? First it starves the baby to death, and then the other chemical in RU46 just simply causes that dead baby to be expelled from the uterus. Then there are also chemicals that are providing for or forcing early expulsion from the womb and other types of chemical poisoning. All of this will skyrocket.

The empirical evidence that public funding of abortions means more abortions is both logical and compelling. Even the Goodmacher Institute, formerly the research arm of Planned Parenthood, says that prohibiting Federal funds under the Hyde Amendment prevents abortions that otherwise would have been procured by a stunning 25 percent. That means that since enactment of the funding ban in the late seventies and early eighties, millions of children who would have otherwise been brutally killed by abortionists if public funding had facilitated their demise today, live and go to school, play sports, perhaps watched the World Series last night. Some of those spared are today raising their own kids, perhaps even serving as staff or Members of Congress. So whether we publicly fund abortion or not literally means life or death for countless individuals, going forward.

The Democratic health bill, Madam Speaker, discriminates against the most vulnerable minority in America today, unborn babies, and is the quintessential example of the politics of exclusion—in this case because of the child's age, condition of dependency, and vulnerability.

There is nothing whatsoever benign, compassionate, or nurturing about abortion. Abortion is a serious lethal violation of human rights. And now we are on the verge of being compelled to massively subsidize this violence against children.

Madam Speaker, no one is really fooled by the multiple attempts to craft language that funds abortions but uses surface appeal text to suggest otherwise. I'm afraid the rule will likely contain self-enacting text that further misleads and obfuscates. Thus, the only policy language that honestly and transparently precludes public funding for abortion is the Stupak-Pitts amendment. The Capps amendment that is already in the bill, as I said, explicitly authorizes Federal funding for abortion in the public option. And again, I urge Members to just read it. With abortion covered under the public option, we will see more abortions. It also allows the government subsidies, the other program, to pay for insurance plans that cover abortion. As a matter of fact, every region will have to have a plan that provides for abortion.

One of the great successes of the Right to Life movement is increasingly calling out to those so-called providers, abortionists, and inviting them to leave that grizzly business. And most of the hospitals in the country and most of the counties in the country no longer have abortionists. This legislation provides economic incentives and the force of law to ensure that every one of these localities has abortionists and abortions provided in a plan.

Madam Speaker, I urge Members to vote for the Bart Stupak-Joe Pitts amendment if it is given an opportunity to be voted on. And if not, this whole bill—because you know what Hippocrates said, ''Do no harm.'' What did the great leaders and nurturers and health care leaders say in the past? Never do harm to an innocent. This is not health care. Abortion is not health care. It is the deliberate and willful killing of an unborn child, the wounding of their mothers, and the hurting, the serious destruction in terms of disabilities and the like to subsequent children.

I would like to yield Congresswoman SCHMIDT such time as she might consume. And I want to thank her for her leadership on behalf of the unborn through these many years in service to Congress and before that.

□ 1915

Mrs. SCHMIDT. Thank you so much, my good friend from New Jersey. I'm having a display brought up.

I would like to talk a minute about something that happened to me over the weekend, and I would like to go back 35 years ago because, well, in the exact same environment, a similar situation occurred.

I'm Catholic and I go to mass. Every weekend, I go to mass. In fact, I go everyday, but 35 years ago when I went to mass, it was right before election, and I remember my Catholic priest, Francis Buttlemyer, said something that really shocked me.

He said, when we went to the polls that Tuesday, we had a choice to make for a Member of Congress—and yeah, we had a Catholic running and we had a non-Catholic running, but the Catholic was pro-choice and the non-Catholic was pro-life. He said that you have to vote for the person who will protect the unborn. I remember coming home and saying to my mother how surprised I was that this priest had been so bold.

Well, last Saturday night, I didn't go to my Catholic church. I went to a different one in my community. During our litany of prayers, they mentioned the fact that Congress would be voting on a bill, the health care bill, and that, in the bill, there were some issues that the Catholic church had with it—abortion, our elderly and the conscience clause for our health care professionals—and that we must pray that they resolve these before we vote on this legislation. I was blown away by that, but what came next stunned me more.

The priest stood up and said, Look, I've got to talk about this for a minute. He did. Then he said, There will be an insert in the bulletin. This was the insert: ''Health care reform is about saving lives, not destroying them.'' The second part of it is a letter from the Catholic conference of bishops: ''Tell Congress: Remove abortion funding and mandates from needed health care reform.''

So they're in favor of health care reform but not of this health care reform. In fact, I want to put these two things into the public record. I was stunned because I hadn't in 35 years heard from the pulpit this strong of a message.

So, when I got in the car, I started to make some phone calls to some of my relatives around the city. What had they heard? The same thing. The priest had said something, and yes, it was in the bulletin. In my own home parish, yep, our priest said something, and yep, it was in the bulletin. It made me think that, if this moved the Catholic church after 35 years in my district to speak again publicly about abortion, this is something that is truly serious because, Madam Speaker, it is a game changer.

So, today, when I read the Roll Call, Madam Speaker, I read: Activists gear up for fight.

I thought, Ooh, what's this about? I'd like to read it.

It reads: Lately, Donna Crane hasn't been making it home early. The policy director of NARAL Pro-Choice America has been lobbying nonstop to ensure that the House does not slip anti-abortion language into its health care legislation, which the Chamber is expected to vote on this weekend.

We're working a lot of late nights, Crane said.

Then it goes on to talk about how various lobbyists are trying to have input into this, but it ends by saying that NARAL and the other pro-choice groups are comfortable with the Capps language and are comfortable with the Ellsworth language. The reason they are is that it really doesn't prohibit the funding of abortion. It's a ruse—it's a game—because what it says is that at least one plan has to have it, but we're going to have this little magical thing over here that's going to allow it to be funded in a different way before it comes through the public fund system.

Madam Speaker, the language in this bill, either the Capps amendment or the Ellsworth amendment, will not only allow the public funding of abortion for the first time with Federal dollars since the Hyde amendment in 1976, but it will also expand it, and that's the dirty, little secret in this bill.

This Saturday, we are to vote on this bill at right about the same time that I was in church last Saturday night, at right about this same time that the

priest stood up and said, Tell your Member of Congress.

Let me tell you, Madam Speaker, that it made me a little nervous because they kind of were looking at me, and I wanted to put up a sign and say, I get it, but I couldn't.

At right about this same time, we're going to be making a decision, not just on the health care for Americans and on the game changer that that is, but on a point that for the last 35 years has been protected, and that is not allowing the public funding of abortion.

Madam Speaker, we cannot allow the public funding of abortion to occur in any way in this bill. It is truly a game changer, and until it is corrected, no one should even contemplate anything but a ''no'' on this bill.

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS NATIONWIDE BULLETIN

Tell Congress: Remove abortion funding and mandates from needed health care reform.

Congress is preparing to debate health care reform legislation on the House and Senate floors. Genuine health care reform should protect the life and dignity of all people from the moment of conception until natural death. The U.S. bishops' conference has concluded that all committee-approved bills are seriously deficient on the issues of abortion and conscience, and do not provide adequate access to health care for immigrants and the poor. The bills will have to change or the bishops have pledged to oppose them.

Our nation is at a crossroads. Policies adopted in health care reform will have an impact for good or ill for years to come. None of the bills retains longstanding current policies against abortion funding or abortion coverage mandates, and none fully protects conscience rights in health care.

As the U.S. bishops' letter of October 8 states: ''No one should be required to pay for or participate in abortion. It is essential that the legislation clearly apply to this new program longstanding and widely supported federal restrictions on abortion funding and mandates, and protections for rights of conscience. No current bill meets this test. . . . If acceptable language in these areas cannot be found, we will have to oppose the health care bill vigorously.''

For the full text of this letter and more information on proposed legislation and the bishops' advocacy for authentic health care reform, visit: www.usccb.org/healthcare.

Congressional leaders are attempting to put together final bills for floor consideration. Please contact your Representative and Senators today and urge them to fix these bills with the pro-life amendments noted below. Otherwise much needed health care reform will have to be opposed. Health care reform should be about saving lives, not destroying them.

Action: Contact Members through e-mail, phone calls or FAX letters. To send a prewritten, instant e-mail to Congress go to www.usccb.org/action. Call the U.S. Capitol switchboard at: 202–224–3121, or call your Members' local offices. Full contact info can be found on Members' web sites at www.house.gov and www.senate.gov.

Message to Senate: ''During floor debate on the health care reform bill, please support an amendment to incorporate longstanding policies against abortion funding and in favor of conscience rights. If these serious concerns are not addressed, the final bill should be opposed.''

Message to House: ''Please support the Stupak Amendment that addresses essential pro-life concerns on abortion funding and conscience rights in the health care reform bill. Help ensure that the Rule for the bill allows a vote on this amendment. If these serious concerns are not addressed, the final bill should be opposed.''

When: Both House and Senate are preparing for floor votes now. Act today! Thank you!

HEALTH CARE REFORM IS ABOUT SAVING LIVES, NOT DESTROYING THEM

Abortion is not health care because killing is not healing.

For over 30 years, the Hyde Amendment and other longstanding and widely supported laws have prevented federal funding of elective abortions.

Yet health care reform bills advancing in Congress violate this policy.

Americans would be forced to subsidize abortions through their taxes and health insurance premiums.

We need genuine health care reform—reform that helps save lives, not destroy them.

Tell Congress: ''Remove Abortion Funding and Mandates from Needed Health Care Reform!''

Visit www.usccb.org/action to send your e-mails today.

For more information on the U.S. bishops' advocacy for authentic Health Care Reform, visit www.usccb.org/healthcare.

Mr. SMITH of New Jersey. Madam Speaker, I yield to Mr. CAO, the distinguished gentleman from Louisiana.

I thank him for his leadership, the first Vietnamese American Member of Congress and a staunch fighter for human rights. I've known him in the refugee battles, especially for the boat people, and in so many other human rights' issues.

So I yield to my friend.

Mr. CAO. Thank you, my friend from New Jersey, CHRISTOPHER SMITH, for yielding me time.

I just want to say that you have been my mentor, and you have been my friend, and I have been very honored to be part of your life and to have known you all of these years. So thank you very much.

Madam Speaker, abortion is a destructive perversion of our society. It is a distorted emphasis on rights to the disregard of individual responsibilities.

Our country was founded on fundamental human rights, and rightly so. ''We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator, with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.''

These rights were reinforced and more succinctly elaborated in the first 10 amendments to the U.S. Constitution. These 10 amendments, more commonly known as the Bill of Rights, have served as the heart and soul of our legal tradition and as the foundation upon which we have built the most powerful democracy in the history of the world.

But life is ''short and brutish,'' said Sir Thomas Hobbes, and if left to our devise, absolute right will lead to anarchy and chaos. Rousseau, Hobbes, and other thinkers of The Enlightenment saw the dangers of absolute rights, and proposed a social contract upon which to build a civil society where mutual obligations are imposed on all parties to the agreement.

The balance between rights and responsibilities has served as a basis for an ethical context, but our society has disrupted this delicate balance between rights and responsibilities by accentuating rights, and it has contrived an anthropology detached from the moral conscience and has called it ''social progress.'' The result is a skewed social politic devoid of moral coherency.

In his encyclical ''Caritas in Veritate,'' Pope Benedict XVI loudly proclaimed, ''Individual rights detached from a framework of duties can run wild.'' This is what we have seen in our society today.

We provide rights to convicted murderers, but at the same time, sanction the slaughter of the innocent. We protest in rage at the slaying of dogs, but barely blink an eye at the murder of millions of innocent children. Traditional principles of social ethics, like transparency, honesty and responsibility, have been ignored or attenuated. As a result, our moral tenor does not respect the right to life and the dignity of a natural death.

To protect individual rights, we have distorted the continuity of human development to portray the human fetus as something less than human and, therefore, as something that can be disposed of.

What happened to personal responsibility—the responsibility to respect and nurture a human life who happens to be one's own child?

Our children cry out for life, for justice, and until the U.S. Supreme Court can garner enough courage to overturn Roe v. Wade, it is up to the voices of the Christopher Smiths, of the Bart Stupaks, of the Jean Schmidts, of the Marsha Blackburns, and of others like myself to fight for those who cannot fight for themselves.

Yes, health care reform is important, and I support responsible reform; but, Madam Speaker, as my friend CHRISTOPHER SMITH so eloquently articulated, abortion is wrong, and I can never support a reform bill that seeks to fund abortion with the tax dollars of hardworking Americans.

Thank you.

Mr. SMITH of New Jersey. I want to thank my friend and colleague for his eloquent and very passionate statement. Knowing of his work on behalf of human rights and of his standing as a human rights advocate globally, thank you so very much, And, for that very powerful statement.

I would like to yield to my good friend and colleague from Texas (Mr. GOHMERT), and want to, again, thank him for his leadership for so many years in the defense of life.

Mr. GOHMERT. I so much appreciate my friend, Mr. SMITH from New Jersey. Earlier, he was talking about RU–486, and I couldn't help but reflect.

You know, we see people who are so concerned, properly, about our environment, about this wonderful garden

with which we've been blessed, and they fight against the use of chemicals that may affect this wonderful garden. They go to organic food stores so they can buy food that has never had chemicals used. They exercise. They go to health clubs, you know, to stay in good shape because they're so concerned about living clean, wholesome lives. Then they would think about taking a poison into their bodies, and they know at the time they take the poison that it's not good for them, for sure. They know that the very reason for taking it is to kill a life within.

How could we get to this point that such a caring society—one that cares about the environment, that cares so much about the world around us and about the people around us, one that will walk up and just chew out anybody who is smoking because of what it does to their bodies and because of what the secondhand smoke does to them, and one that will protect any others around them from someone's smoking—would take a poison into their own bodies for the very purpose of killing? I mean how does that make sense? How did we get to this point?

Then you realize, well, the reason you do that—take a poison to kill a child, a life within—is you're wanting to avoid the consequences of your conduct. That's the bottom line.

Then you come to realize, if you live in a society that goes on, say, 35 or 36 years where it becomes completely legal and acceptable to even poison or to kill or to decapitate for the sole purpose of avoiding the consequences of what we do, then you get to a point where people would want to avoid any tough decisions, any consequences. So you would get to the point where we are today where, perhaps, 40 percent or so would be willing to say, You know what? I'm willing to give up my freedoms just so I don't have to worry about consequences anymore. I'm going to give up my liberties, give up my freedoms so that my government will take care of all of my health care decisions from now on.

□ 1930

Isn't that wonderful. The government will make our health care decisions. They'll decide which things will be funded and which things will not, and I won't have to think about it anymore. I won't have to worry about it anymore. Just like when I got involved when I shouldn't have and the consequence was a life within me. I didn't have to worry about them because I could just kill that life with no consequences.

There is a woman named Abby Johnson who's self-described as ''extremely pro-choice,'' who said she knew it was time to quit in September when she watched an unborn child ''crumble'' as the baby was vacuumed, dismembered, and destroyed.

I appreciate my friend CHRIS SMITH's bringing this to my attention. Abby Johnson is from Texas. She said, ''The clinic was pushing employees to strive for abortion quotas to boost profits.'' In former clinic director Abby Johnson's words, ''There are definitely client goals. We'd have a goal for every month for abortion clients.'' The article continued, ''The Bryan Texas Planned Parenthood clinic expanded access to abortion to increase earnings.'' They reported that Johnson said, '''One of the ways they were able to up the number of patients they saw was they started doing the RU–486 chemical abortions all throughout the week.'''

Yes, that's the ticket. Just give people poison and let them not only kill a life, but poison their own systems. People that wouldn't dream of smoking, it's okay, take this poison, can kill a life, and hurt yourself.

Well, World Net Daily did an article and they explained that ''RU–486 chemical abortions kill the lining of the uterus, cutting off oxygen and nutrients, resulting in the death of an unborn baby.''

Just like CHRIS SMITH was talking about, you're starving a child.

Johnson said the chemical abortion cost the same as an early first-trimester abortion: between $505 and $695 for each procedure. And Johnson's words were ''Abortion is the most lucrative part of Planned Parenthood's operations . . . they really wanted to increase the number of abortions so they could increase their income.''

Folks, it is wrong. And if you didn't believe abortion was going to get funds under this bill, then you ought to believe it when you read the bill. You go to the trouble to read the bill. And when the subtitle is, and this is Page 110, ''Abortions for which Public Funding is Allowed'' and then read through there, gee, public funding must be allowed for abortion because it's in the bill if people will bother to read it.

But we come back to this: We're living in a time when we have got to come back to educating our children that conduct has consequences. And when you make them believe for 35 years that their conduct has no consequences, then you get to the point where we are today. You have a Republican administration running up the deficit and then you have a Democratic administration raising it exponentially because there are no consequences to our conduct. We can break the Nation but we won't go broke. We can, in the face of terrible economic conditions, run up the deficit even more and have no consequences because we know, going back to Roe versus Wade, we have learned in this country you don't have to have consequences to conduct.

We have got to come back to sanity while we have still got a country because we are in this country not because of what we did, what we deserve, but because people who came before us sacrificed, because they knew there were consequences to conduct. And we've got all we have today because of them. And the only way we will ever show we deserve what we have is if we can pass on a country with freedom and liberty, where, yes, there are consequences to conduct to those who come after us. And if we don't turn this thing around, they're not going to get the gift we were given.

I thank my friend from New Jersey for taking this hour and concentrating his time on such a critical issue.

Mr. SMITH of New Jersey. I thank Mr. GOHMERT for his, again, very eloquent statement and for his logic, which is so important and sometimes lacking in this august body.

Let me also point out that we have a man who is going to speak next, MARK SOUDER. Truth in legislating is not a forgotten art, and when people say, as you pointed out, Mr. GOHMERT, that the abortion funding in both the public option and in the program that establishes affordability credits couldn't be more clear, there's no ambiguity about it. There is some language that is very, very deceiving that leads people to think it's not in there. And then people say it. The President of the United States suggested that funding for abortion is not in his plan. And, frankly, assuming he was misled by perhaps staff, nothing could be further from the truth.

I would like to yield to a man who offered airtight pro-life language in the committee on which he serves, Education and Labor Committee, to speak, Mr. SOUDER.

Mr. SOUDER. I thank my friend from New Jersey for yielding.

Before I get into a couple of specifics with that, this isn't the bill. This is the bill. Originally we had a bill with about 1,200. It was like this. Now it's gone to 1,900. And I want to make it clear that I definitely oppose this abortion funding in this bill, but this is an unconstitutional attack on capitalism, our freedoms, our health care. And even if they fix the abortion, this bill is an atrocity.

But in addition to being a generally bad bill, it's a specifically bad bill in the protection of human life. I've worked with this issue for much of my life. Actually even before the Supreme Court decision on abortion, I was concerned about what California and New York had done. When I was a grad student at the University of Notre Dame, they did the original decision on Roe v. Wade, and we formed within 48 hours the student coalition to support a constitutional amendment. I've spent much of my life doing that.

We now have our first grandchildren. And when you have grandchildren and your own children, you cannot possibly not want to defend that life.

I worked with my friend and colleague from New Jersey. We did a hearing in my subcommittee when I was Chair on RU–486, the only hearing that was ever held here.

It's not only a danger to the baby where they die, and it's a certain death to the baby, but it's a death threat to the mother. And they deliberately covered up these stats. We held a hearing

showing that RU–486 was supposed to be the safe thing, the way to do it behind doors; then you're not cutting up the baby and having to take the pieces out. You're not burning the skin off the baby. You're not exploding the baby into pieces. It's supposed to be more humane. It kills the baby. It destroys it at its early stages.

But this they don't report. They don't separate out the facts. We had over a hundred that even years ago were near-death experiences, a number of deaths. We pull drugs off the market if they're risky. We document this. And all of a sudden, they're on the non-scientist side. They don't want to see the science on RU–486. On top of that it appears they're prescribing it even outside of FDA guidelines. And by the time that the mothers learn they're pregnant, by the time they go into Planned Parenthood, even RU–486 says it's unsafe to the mother after a certain date, and they're getting away with this at Planned Parenthood.

Some say there's no abortion in the bill. Let me ask you, from personal experience, then why did Planned Parenthood fund ads against me after I offered the two amendments? They funded ads in my district in August, along with ACORN and the government unions, to try to ''make an example,'' was their words, for my offering two amendments in the Ed and Labor Committee to make it clear that it didn't fund abortion. Why were those amendments defeated?

Well, part of the frustration of the general public with a bill like this, and you've heard different parts, but in the section on abortion services, I love the section before: ''Nothing in this act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in (4)(A). ''

Well, what's (4)(A)?

(4)(A) says, ''The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted.''

Excuse me? It says that it's prohibited, but the thing before says nothing in the next section applies. What kind of double-talk is this? I just do not understand. Do they think that with all the information systems today, with the posting of this, with all of us out there that somebody isn't going to read this? I mean how stupid.

''Nothing in this act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in (4)(A).''

(4)(A) says, right off the bat, ''The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted.'' A, reverse A, and you think we're going to buy that?

Furthermore, the Capps amendment, which is what this is basically trying to do, is trying to bypass the Hyde that doesn't cover elective abortion. They say this bill will put a Planned Parenthood clinic in every county in the United States, that it mandates multiple types of things in the public health option.

Congressman ANDREWS very eloquently responded to my amendment and said if there's a public option, there has to be public payment of abortion. He said if it's a constitutional right, you have a constitutional right to have it paid for.

I have a constitutional right to have a Shelby Cobra and I'm hoping to get one soon from the government.

Just because it's a constitutional right does not mean you have a constitutional right to have it paid for, but that's the language behind this.

Then they came up this week with the so-called Ellsworth compromise, a friend of mine from Indiana. This Ellsworth language, however, merely channels the funding through another entity. This is like saying, well, if SBA gives you a direct loan, it's a government loan, but if the SBA runs through a bank and you get it through the bank, well, that's not an SBA loan, that's a bank loan. Now, the government put all the money in, the guarantee. The government's standing behind it. It's an SBA loan. But it's not really an SBA loan because now we're going through a fig leaf.

The American people are getting sick of the misleading nature and the double-talking of Congress. You have double-talk straight in the bill. Then you have another compromise that double-talks the double-talk. And they wonder why the confidence in government is down? They wonder why people don't trust American politicians as much anymore and American political leaders?

There is a fix for this. There was a fix in committee. There's a fix on the floor. But if we come out with this type of thing and people who claim they're pro-life vote for this, hold them accountable.

Mr. SMITH of New Jersey. Thank you, Mr. SOUDER. And I do want to thank you again for offering that amendment and for that very illuminating and incisive hearing on RU–486.

Again, we know that the trials that led to approval by the FDA, when Kessler was the head of the FDA under President Clinton, he on bended knee asked the company that manufactures RU–486 to bring it here. Sham trials were conducted where women who were seriously hurt were not reported. And we know for a fact, women are actually dying from RU–486. Probably because they had the best reporting of any other State, those women have surfaced in California from those deaths attributable to RU–486. And it's baby pesticide that has serious consequences for women, including death.

Again, no pharmaceutical company in America would take up RU–486, the abortion drug, simply because it was so dangerous. So they found the Population Council Company. Try suing them when you have egregious harm done to a woman or a death, a fatality. It's an organization. It's not like Merck or some other because all of them took a pass because it is so dangerous.

And you held the only hearing, as you so well pointed out, and I commend the gentleman for them.

I would like to yield to Mr. FORTENBERRY, a good friend and great champion of human rights as well.

Mr. FORTENBERRY. I thank my colleague Mr. SMITH from New Jersey, whom I learned a great deal from primarily about being passionate for those who are least among us, for being passionate in the belief that women deserve better than abortion. So I thank you for your leadership, sir.

I would like to point out what is becoming increasingly clear, Madam Speaker, that the health care plan under consideration would authorize Federal funding for elective abortion, even though the majority of Americans do not want their government funding that procedure.

Several amendments, as has been discussed, introduced in the committees of jurisdiction to make sure abortion funding was explicitly excluded from the bill all failed. Now it is reported that there is a so-called abortion funding compromise that I fear is put in place to draw the support of pro-life House Members who otherwise, in good conscience, would not vote for this particular bill.

□ 1945

This move should not mislead the American people. However clearly, cleverly worded the proposal might be, this plan would authorize a government-run option to fund elective abortion and subsidize private plans that cover elected abortion. This language creates a smokescreen by appearing to offer a restriction on the use of Federal funds for abortion while leaving in place the key legal authority which says, ''Nothing in the act'' should be interpreted to ''prevent the public health insurance option from providing for coverage of elective abortion.''

The abortion language requires the public option to hire contractors to ensure that money paid into the government option could potentially be used to pay for elective abortions. For example, Medicare contracts with private business to handle claims, but no one in their right mind would say that Medicare payments are private payments. They're government payments. So this new compromise language is a hoax.

So, Madam Speaker, I don't believe my colleagues should be misled. I also believe that we should have the opportunity for more dialogue, debate, and consideration of potential amendments that could actually strengthen the opportunity for good health care reform

in this country. I would personally like to offer an amendment that broadens a long-held American tradition that we call freedom of conscience. I would like to simply read a part of the amendment that I will potentially offer. It says, The Federal Government and any State or local government or health care entity that receives Federal health assistance shall not subject a health care entity to discrimination on the basis that the entity does not perform, participate in, or cover specific surgical or medical procedures or services or prescribe specific pharmaceuticals in violation of the moral or ethical or religious beliefs of such entities.

This amendment goes on and actually protects the freedom of conscience of those who are actually in the health insurance coverage business by saying that the Federal Government, any State or local government that receives Federal health assistance shall not prevent the development, marketing, or offering of health insurance coverage or a health benefit plan which does not cover specific surgical or medical procedures or services or specific pharmaceuticals to which the issuer of the coverage or sponsor of the plan has an objection of conscience that is clearly articulated in its corporate or organizational policy.

So, Madam Speaker, here is the issue. We should be allowed to amend this bill. We should be trying to work together to strengthen health care for all Americans by improving health care outcomes, reducing costs, and protecting our most vulnerable. The most vulnerable include people who find themselves in very difficult circumstances, those who call upon us—maybe not verbally because they're inside the womb, but those who are the least among us that need our protection and help.

So, with that, I yield back to my colleague CHRIS SMITH.

Mr. SMITH of New Jersey. I would like to yield to my good friend and colleague Dr. ROE, an OB/GYN who knows so much about this and has been a leader in this Congress on all life-related issues as well as other things.

Mr. ROE of Tennessee. Madam Speaker, I thank the gentleman from New Jersey. I am going to go back many years ago in my life to a time when I was a young physician trying to decide what I was going to be in life. I decided I was going to be an internist, which is a noble thing to do. But I realized one day when I was in the hospital that what I really had a passion for were for babies and children and delivering babies, and it was fun. And of the almost 5,000 babies I delivered, they were fun. I had a wonderful time doing it, bringing life onto this planet. The group I belong to in a small town in Tennessee, Johnson City, Tennessee, has delivered almost 25,000 babies since I joined the group. We're a pro-life group.

I think back to the children I have delivered during the past 30 years, and these young people have become musicians and attorneys and physicians and teachers and carpenters and pastors. I was at my college homecoming last week, and one of them was a 6-foot 7-inch, 300-pound football player. They become all kinds of things. To me, the thought of them not being here is heartwrenching and heartbreaking because you've snuffed out a life that could have otherwise been a Congressman, a teacher, anything.

This bill that we're discussing should be a health care bill, and, distressingly, in my opinion, elective abortion is not health care. We should be doing, as the previous speaker said, everything we can to protect the unborn. Let me explain a little bit about that.

When I first began practice, of the babies born before 32 weeks, half of them died. And we have used extraordinary means and technology. Now a child born at 32 weeks is a term baby, and I recall a child that we delivered at 24 weeks over 20 years ago, which even then would have almost been considered a miscarriage. This child got down to 14 ounces, that's how big, and that was over 20 years ago. That child is a fully grown adult today. If we had used the idea that this was, hey, an abortion or a miscarriage, that child would not be there with a mother and a father who are loving it and a family and a chance to have a family.

We shouldn't disguise health care as abortion coverage. Madam Speaker, I think this is one of the most egregious things in this particular bill. There are a lot of things in this health care bill that are not related to health care, but this is one that should be done away with, and whether you are pro-life or you are pro-choice, the majority of people in this country don't want their tax dollars used for abortion. To me, it's a very emotional issue, a very personal issue, and I will continue to be a pro-life doctor until I'm not on this Earth.

I yield back my time.

Mr. SMITH of New Jersey. I thank the gentleman from Tennessee (Mr. ROE) very much.

I now yield to my good friend and colleague Mr. JORDAN from Ohio.

Mr. JORDAN of Ohio. Madam Speaker, let me thank Representative SMITH for his many years of leading the Pro-Life Caucus and fighting to protect the sanctity of human life. I especially want to thank him, along with Congressman PITTS and Congressman STUPAK and a host of others, and you as well, Madam Speaker, for your efforts in working to get this language out of the bill which would take us to a point that would cross a line in this country that I believe is very, very scary.

If you remember when the decision happened in 1973 and we started down this road, one of the arguments we heard from the pro-life community—and we, frankly, continue to hear—is the slippery slope argument, the fact that this slope is slippery, it is steep, and that if we begin to allow unborn life to be taken, it will lead to a whole host of things. Now, here we have a health care bill in front of us scheduled to be voted on this weekend, this Saturday, which would, in fact, permit taxpayer dollars, Federal dollars, government money to be used to end the life of an unborn child. That is just wrong. It is important that we tell the American people we do not want to go past this. The American people understand this. They do not want their tax dollars used in this way. I think it is critical that we just continue to fight.

So again, I want to be brief tonight. I know we have a few more speakers in just the few minutes we have left, but it is so critical that we understand how sacred life is.

There was a precedent here today in the Nation's Capital where thousands of people came. One of the things that concerned them—not just the price of this bill, not just other elements, not just a lack of empowerment for families and small business owners and taxpayers in this bill, but the fact that their tax dollars could, in fact, be used to end life, and they spoke out loud and clear.

And one of the things that was said at that conference, we went back to the document that started it all—and I will finish with this. The document that started it all. I tell people, next to Scripture, the best words ever put on paper in the Declaration of Independence, where the folks who started this great country, this great experiment in freedom and liberty, they wrote these words: ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.''

We've all heard this before, but it's so interesting to go back to these fundamentals, to go back to these basic principles that started this grand place we call America. It's interesting the order the Founders placed the rights they chose to mention. Life, liberty, pursuit of happiness.

Just ask yourself a question, Madam Speaker. Can you pursue happiness? Can you go after your goals, your dreams? Can you go after those things, pursue those things that have meaning and significance to you if you first don't have liberty, if you first don't have freedom? And do you ever truly have real liberty, true freedom if government doesn't protect your most fundamental right, the right to live? That's what's at stake here.

We are on the verge of crossing a very dangerous line if we allow this health care bill with all its other problems, but the central focus in this bill of allowing taxpayer dollars, Federal money to be used to end the life of an unborn child. It's so critical that we stop this bill in general, but certainly to make sure that provision is not there and continue to be a country that respects the sanctity and sacredness of human life.

So again, I want to commend the Chair of the Pro-Life Caucus for his many years in doing just that and fighting this good fight. God bless you.

With that, I will yield back the balance of my time.

Mr. SMITH of New Jersey. Thank you for your kind words, but more importantly, for your leadership on the behalf of innocent unborn children and the wounded mothers. I know you work very hard with pregnancy care centers and believe passionately that we need to love and affirm both. It's not about one or the other. It's both. So I thank the gentleman from Ohio for his leadership and consistency.

I would like to yield to my good friend and colleague Mr. KING from Iowa.

Mr. KING of Iowa. I thank the gentleman from New Jersey for heading up this Special Order tonight and for taking the lead on life in this Congress for years and years. Maybe we could start to count that in decades, it's been such a persistent and relentless effort that has been made.

As I listen to the dialogue here tonight and I see the pro-life leaders that are here in this Congress, the core of the pro-life people that are on my side of the aisle and the help we have of some of the pro-life people that are on the other side of the aisle come to a head here in this Congress this week with the very idea that Congress might pass a national health care act, a socialized medicine act that would have in it the kind of language that would compel pro-life, God-loving, God-fearing, unborn baby-loving and protecting Americans with a conscience to fund abortions, and this would be the complete component of a socialized medicine piece of legislation that wouldn't just be cradle to grave, it would be conception to grave. We have long held this standard in this Congress, with the Hyde Amendment, with the Mexico City policy, that it is immoral to impose the costs of abortion on the people who strongly believe in this—it is a majority of the American people that strongly believe that innocent, unborn human life are human beings too.

I simply ask two questions, and I will raise these questions in a high school auditorium or anywhere across this land. Madam Speaker, I especially make this point to the young people in America. I tell them, You will have a profound moral question to answer, and it will be very soon that you need to come to this conclusion. And when you make moral decisions, they need to be very well grounded. They need to be grounded in the fundamental principles.

The first question that young people need to ask is, is human life sacred in all of its forms? Do you believe in the sanctity of human life? I ask them to look at the person who sits next to them. Is that person on your right, is their life sacred? The person on your left, is their life sacred? They will say yes. Is your life sacred? And, Madam Speaker, they will say yes. It's almost universal in America that we believe our lives are sacred, each one.

And the law in America doesn't differentiate between someone who is 101 or someone that's 1, whether they have a century of life ahead of them or a century of life behind them. All human life has the same value under the law in the United States of America with equal protection under the law. That's the principle. That's the belief.

The late father of Senator CASEY from Pennsylvania, Bob Casey, the former Governor of Pennsylvania, made this statement that I had put on the wall in my office at home in Iowa, and it's been there for years. Bob Casey, Democrat, denied the ability to speak before the National Convention, but his statement on life, Madam Speaker, was this: Human life cannot be measured. It is the measure itself against which all other things are weighed. Life is sacred.

Question number one, do you believe in the sanctity of human life? Answer, yes, we all believe that. Then the only other question we have to ask, in what instant does life begin? I pick the instant at conception. It's the only instance we have. If there was a moment before that, we should examine that. The instant of fertilization/conception. Those two questions ask, do you believe in the sanctity of human life? Yes. Does it begin in any other instant other than that of conception? No. Therefore, life begins at the instant of conception.

It's immoral to ask the American people—to compel the American people to fund abortion.

□ 2000

Yet that's what this Speaker is prepared to do and that's what we are prepared to oppose.

Mr. SMITH of New Jersey. I thank my good friend. That was a very wise and eloquent statement.

I would like to yield to Mr. BURTON of Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I won't give my normal 20-minute speech, but I would just like to say that CHRIS SMITH has been a leader on the right-to-life issue as long as I have been in Congress. He and Henry Hyde were the stalwarts that were always fighting for the unborn, and I am very happy to lend my support to their efforts.

I would just like to say that in addition to the language that's in the bill that's going to allow the taxpayer to pay for abortions, this bill is really an abomination. The bill that is going to be before us Saturday costs $2.25 million per word and the bill is over 2,000 pages long. It's going to cost $1.3 or $1.4 trillion and maybe more than that. It's an absolute disaster waiting to happen. It's going to cause rationing; it's going to cause seniors to lose Medicare Advantage; it's going to cost $500 billion out of Medicare and Medicare Advantage. This is a disaster.

And when I hear the President say that the doctors want this, my wife's a doctor. He says the AMA wants it. Doctors across this country don't want it. He says that the seniors want it because of AARP. Seniors don't want it. AARP is getting 61 percent of their money from kickbacks from insurance companies and commissions, and they are going to get more if Medicare Advantage goes down the tubes because they will sell more Medigap insurance.

There are a lot of problems with this bill, but one of the most important things to me and to CHRIS and all those who are here tonight is the right-to-life issue. For that reason alone we should defeat this, but there are a lot of other problems with it as well.

Mr. SMITH of New Jersey. Mr. BURTON, thank you very much for your leadership, longstanding, over these many decades. Thank you for being such a great defender of life.

I would like to yield to Dr. BROUN.

Mr. BROUN of Georgia. Thank you, CHRIS SMITH. I greatly appreciate all your leadership on this.

Madam Speaker, I'm a medical doctor. I've practiced medicine in Georgia for almost four decades. The very first bill I introduced in Congress, the first bill I will ever introduce in every Congress, as long as the Lord continues to send me up here, is one called the Sanctity of Human Life Act. It defines life beginning at fertilization.

As a medical doctor, I know that that's when my life and all of our lives begin. Madam Speaker, God cannot continue to bless America while we are killing 4,000 babies every day through abortion. He just cannot and will not because He is a holy, righteous God.

He tells us in Jeremiah that He knows us before we are ever knit together in our mother's womb. We have to stop abortion. We have to stop this bill that is going to continue to fund abortions with taxpayers' dollars. The future of our America depends upon it. Right to life is absolutely the central part of liberty and freedom in America.

Madam Speaker, we cannot lose that right.

Mr. SMITH of New Jersey. Dr. PHIL GINGREY.

Mr. GINGREY of Georgia. Madam Speaker, I thank the gentleman for yielding.

We were on the floor last night and a gentleman on the Democratic side on the part of the majority in their hour, Mr. GRAYSON, talked about the number of lives that were lost or are being lost in every congressional district across this country because of the lack of health insurance.

Last night I asked the gentleman to yield to a friendly question, and my question was going to be, Representative, are you pro-life or pro-choice on the abortion issue? The gentleman chose not to yield to me. I don't really know the answer to that question to this day.

But 4,000 babies are losing their lives every day. I hope the gentleman is pro-life, because he said, Stand for life.

GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE PROGRESSIVE MESSAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Madam Speaker, my name is KEITH ELLISON. I am here to speak for the Progressive Caucus, to talk about the Progressive Message.

Tonight, before I begin, I just want to say that my heart is sick and broken for the horrible tragedy that occurred at Fort Hood, and I ask all Americans to keep the families in their prayers and in their thoughts.

I now will proceed with the hour.

Tonight is the Progressive Message, we are here to talk about a progressive message for America, a message that says the human and civil rights of all people must be respected; a message that says dignity of people, regardless of their race, class or religion must be respected; a dignity that says that if 36 other countries in the world can provide universal health care coverage for their citizens, how come the richest country in the world, not only the richest country in the world but the richest country in the history of the world, can't do it.

Why do we have 50 million people who are not covered? Why do we have a doubling of premiums for the people who do have health care coverage? Why do we have people being excluded for a preexisting condition? Why do we have these things?

Well, the time for those things to end is now. We are within grasp of major health care reform and no scare tactics, no fear-mongering, no stretches of the facts are going to change that.

My colleagues on the other side of the aisle are quite upset about the present state of affairs because they know that Americans want health care reform. They want health care reform, and I believe they're going to get it.

I want to say that I have spent these last several weeks talking about the problem. I have also spent many days discussing the Democratic bill, and I will do so tonight.

But I want to spend a little time talking about what our friends on the other side of the aisle are proposing in their bill because, ladies and gentlemen, Mr. Speaker, we haven't heard much detail from the Republican side of the aisle. We haven't heard much at all, but they recently put forth an outline of a plan, an outline of a plan, not a plan, but just sort of like an outline of one, and it's not good.

It was always convenient to just bang, bang, bang on what the Democrats were proposing, but now that America has said, okay, you guys don't like what the Democrats are calling for, what have you got? And their answer was less than satisfactory.

Under the GOP health plan—I don't believe it's been introduced as a bill yet; it's just sort of a plan—people with preexisting conditions would pay up to 50 percent more than average for insurance coverage under the GOP plan. States would have to cover the rest of the tab with a stable funding source. This is Roll Call, November 4, 2009. Check it out. Under the Republican plan, most States already have such plans but typically are much more expensive than regular insurance and have not made much of a dent in the ranks of the uninsured. Also from Roll Call.

A key piece of earlier Republican drafts, tax credits that would help people afford insurance, was rejected by the House minority leader as too expensive. Also Roll Call, November 4.

The Republican measure has no limits on annual out-of-pocket costs, which means bankruptcy for some. But let me quote from the Roll Call article: The Republican measure has no limits on annual out-of-pocket costs, nor does it provide any direct assistance for uninsured people to buy insurance.

So how are we going to deal with the uninsured problem, which you and I pay for anyway?

The Congressional Budget Office, the CBO, has said on Wednesday that an alternative health care plan put forward by House Republicans would have, quote, little impact in extending health care benefits to roughly 30 million uninsured Americans. This is from the New York Times.

Do you mean to tell me after all this attacking of the Democrats' proposal, the Democratic plan, that the Republicans have just bashed us, week after week, day after day, hour after hour, minute after minute—oh, it's bad, bad, bad, and that's all you ever hear is ''no''—they finally come up with their idea and they're going to leave 30 million people uninsured?

This has got to be April Fool's Day come early. The Republican bill has no chance of passage, because Americans really don't want it, because if they did, we would be talking about it. But I quote again from the New York Times: The Republican bill, which has no chance of passage, would extend insurance coverage to about 3 million people by the year 2019.

Why aren't they embarrassed? I have no idea. The Republican bill, which has no chance of passage, would extend insurance coverage to about 3 million people by 2019, and, continuing to quote, would leave 52 million people uninsured. The budget office said, meaning the proportion of nonelderly Americans with coverage would remain about the same as it is now, roughly at 83 percent.

Let me read it again. The proportion of nonelderly Americans with coverage would remain about the same as now, about 83 percent, meaning that we have upwards of 16 to 17 percent who don't have insurance.

Going along with the Republican plan, the Republican plan tonight, as we are discussing the Progressive Message, we're just going to talk about their plan since they got real expert talking about ours, we're going to let the American people know the real facts about the Republican plan. This is not a criticism or an attack on any individual member of the party apposite. I regard that they are honorable people, but we have to talk about their plan because it's not a good one. And the reason they haven't been bragging about it is because not even they are proud of it.

The Congressional Budget Office umpires say the House Republican health plan would only make a small dent in the number of uninsured Americans. Let me say that again. According to the Associated Press article on November 4, 2009, Congressional Budget umpires say, quote, the House Republican health plan would make only a small dent in the number of uninsured Americans.

Wait a minute. I thought that they had some great plan. How can you not make a dent in the number of uninsured Americans and still claim you have a good plan? Their plan is an embarrassment. They're not bragging about it because they, themselves, know that it's far more strategic to just bash away on the Democratic plan rather than talk about their own plan, which is nothing but status quo and keep insurance companies making lots and lots and lots of money. That's what it's all about—protect the wealthy and let everybody else do the best they can with what they got.

Let me go to another important quote: Late Wednesday, last night, a bill that Republicans expect to offer as an alternative to the Democratic package received its assessment from the congressional budget analysts who concluded that the proposal wouldn't do anything to help reduce the ranks of the uninsured. The CBO said some people would see higher premiums, including older and sicker people.

This is the Republican plan? Here is one. The CBO, the Congressional Budget Office, begins with the baseline estimate that 17 percent of legal nonelderly residents won't have health care in 2010. That's a lot of people. Seventeen percent of legal nonelderly residents won't have health care insurance in 2010. That's an indictment of the status quo, which the Republicans support.

But, in 2019, after 10 years of the Republican plan, the CBO estimates that it will still be stuck at 17 percent of the legal nonelderly residents not having insurance.

□ 2015

That is from the Washington Post today.

My goodness, how in the world can our friends from the other side of the aisle claim that they are offering an improvement on the status quo when they are not changing the proportion of the uninsured even 10 years from now?

This is a scathing indictment, and I don't expect to hear them talk much about their plan. And, if they do, they are not going to tell you about this, because this is embarrassing to them. They don't want this out. They don't want you to know about this. They want you to just keep on listening to the nonsense about death panels and school sex clinics, and they want to talk about the polarizing political issue of abortion. And I want to get to this issue of abortion in a little while.

But I want to say that they want to use polarizing language, polarizing issues that divide Americans. They want to throw up scare tactics, all of it ultimately accruing to the benefit of the status quo now, which is an industry that reaps enormous magnitudes of profit at the expense of citizens who see their premiums escalate and see themselves denied coverage and see rescissions and see all these things that have cost the American economy dearly and the American middle class.

This is a Washington Post quote: ''The Republican alternative will have helped 3 million people secure coverage, which is barely keeping up with the population growth. Compare that to the Democratic bill, which covers 36 million more people and cuts the uninsured population down to 4 percent.''

How can the Republicans have a straight face and offer this bill? How can they look you in the eye, after months and months of all of these disruptive meetings, where people were disrupting meetings and causing so much trouble, causing so much fear, and this is what they have to show for it?

Madam Speaker, I can't believe that they honestly are offering this as a proposal.

According to the Congressional Budget Office, the Grand Old Party, the Republican Party's alternative, will shave or cut $86 billion off the deficit in 10 years. But get this: the Democrats, according to the CBO, will cut $104 billion off the deficit. The Democratic bill is fiscally superior to the Republican alternative.

According to the Washington Post today, you can read it, according to the CBO, the Republican alternative only cuts $68 billion off the deficit in the next 10 years. The Democratic bill cuts $104 billion off the deficit. That is just about $40 million more.

Wait a minute. Aren't these the guys who always complain about the deficit and spending and all this? Maybe that claim rings hollow.

The Democratic bill, however, in other words, covers 12 times as many people and saves $36 billion more than the Republican plan. Let me just say this again for people listening out there. I know you have been scared.

They want to tell you that the Democrats want to take away Medicare. Not true. They are trying to tell you the Democrats are trying to change the scenario as it relates to this very polarizing issue among Americans, abortion. It basically keeps things as they are today. They are trying to talk about death panels and school sex clinics, and they are trying to say that health care reform is only about the uninsured.

None of these things are true, and it is important to come to the House floor and refute these false allegations. It is not the case, it is not right, it isn't true.

I just want to say I am so proud to be joined by one of the finest Members of this body, my dear friend from the great State of California, DIANE WATSON. She is going to get her papers together; but when she is ready to start talking, I am going to yield to her right away.

I just want to say the Democratic bill that has been released covers 12 times as many people and saves $36 billion more than the Republican plan. It covers 12 times as many people and saves $36 billion more than the Republican plan. Yes, I am going to keep saying this on the House floor. It needs to be said.

The fact is, today we had a lot of visitors in Washington, and I want to say welcome to those folks. My colleague from the great State of Minnesota, and I am so proud to be from Minnesota, my friend, Congresswoman BACHMANN, invited people down, and folks came. And I am glad they showed up, because democracy is good, and it is good to have people here.

Now, I will say that many of the people who came down to support my colleague from Minnesota, we probably didn't see the issue the same. But I just want to say, I was honored to have them in my office. I am so proud that I was able to talk to my colleagues.

But here is the thing that broke my heart. As they were explaining to me what their concerns were, they were saying, I have been dropped because of a preexisting condition. They were saying, I have been unemployed and I can't find an insurance policy to cover me. They were saying, I am afraid that I am going to go bankrupt. My family doesn't have any money. I lost my job. My husband lost his job. What are we going to do? And I said, you know what? You got on the wrong bus coming here, my friend. This Democratic bill is the one you need to be looking at.

The fact is that good people have been scared away from policy that is going to help them. Good people, made afraid that policies that are going to help them are not for them. And that is a shame.

So we had to come down here to the House floor today to explain that the fact is that middle class, working-class people struggling to make ends meet are going to benefit from the Democrats' proposal.

I just want to say that after years of the Republicans being in power, years where they had the House, the White House, the Senate, doing nothing at all to help Americans, Democrats are taking care of business right now. I am so glad we had a lot of people and I was able to talk to constituents and others about this important issue of health care. Some of us started out not on the same page, but we ended up a lot closer together because I was able to say here are the true facts, not the made-up ones.

I yield to the gentlelady from California.

Ms. WATSON. Madam Speaker, it is a pleasure and an honor for me to come down and join my colleague, KEITH ELLISON. He has been a driving force to bring reality to the public.

Congressman ELLISON, I want to thank you for your diligence. What really gets to me is the misstatements, the fear that has been put out to the public. And think about this: Why are people ranting about health coverage and not reasoning about it?

They have made fun of our President, Barack Obama. They have disrespected him on this floor when a Member hollered out for the first time in the history of this House, ''You lie.'' I hope the world saw that and questioned what that was all about.

When they talk about NANCY PELOSI, the first woman to be Speaker, and talk about PelosiCare, that it is going to take benefits away from seniors, those are lies.

I tell people when they come up to me, remember, we started off trying to cover Americans that had no insurance, somewhere around 38 million. Private insurance companies make profits off your health care. They make profits off the condition you are in. Why should health, good health, be profit-making? We should address the health needs of Americans.

Now, you are going to hear the opposers say, You are putting our kids and our grandkids in debt. Well, they never said that when we fought an unnecessary war in Iraq, costing us $15 billion a month. If we were to send additional troops to Afghanistan, it is going to cost us $5 billion. And what do we get as a result of that? Do you think we are going to be able to stabilize these nations thousands of miles away at the expense of our people and our country?

Just today, there was a horrible massacre on one of our greatest and largest bases, Fort Hood in Texas. Think about all the medical personnel that would have to be there to care for those 31 that were injured. Twelve people lost their lives. And one of the suspects is a mental health professional, a major who is a licensed psychiatrist. What does that tell you?

So what are we trying to do? If we want to be the strongest Nation on

Earth, we have to be sure Americans are strong. We have to provide for those less able than many of us.

You are going to hear people say you don't want government running your health care. They don't do anything successfully. Then you are already condemning our victory that some people are expecting in Iraq and Afghanistan and so on. If government doesn't do anything successfully, then we all ought to go home. We are a fraud.

But ask this question: What is Medicare? What is Medicaid? What is Social Security? These are government-run programs as part of that safety net.

In the richest country on Earth, why should anyone go hungry or go without health care? If we had a government-sponsored option, and let me just define for the people who don't understand the meaning of ''option,'' ''option'' says you make the decisions. It is a misstatement to say that government will get in between you and your doctor. That is so untrue, and the people who are saying that know it.

Mr. ELLISON. If the gentlelady will yield, is it not the case today that some insurance company bureaucrat can get between a patient and her doctor?

Ms. WATSON. I chaired the Health and Human Services Committee in the California State Senate in Sacramento, California, for 17 years; and we put in place a program. We were always coming up against HMOs, health maintenance organizations. If a doctor prescribed a particular drug for his patient, they would have to call in to some other office, maybe it is the secretary or whatever, and say, Can the doctor prescribe this medicine for the patient? If it wasn't on the formulary, it won't happen.

□ 2030

So I know the experiences because being there 17 years and having people come and testify in front of us because an HMO said I want 150,000 patients in my pool, and they are all-out in south central Los Angeles, our hospital closed out there, they were assigned to a hospital maybe 30 or 40 miles away, a mother with her three children would have to spend 3 hours trying to get health care. It is not accessible.

I know of what I speak. I lived through it. We designed policies so we could address the human needs of all of our people. And we can't have a successful democracy if we discriminate. What I mean by discrimination, we fought the battles in the 1960s discriminating against people of color. Now we are trying to fight the battle of poor people, fight for them who cannot afford this expensive insurance.

In my State of California, if we didn't have this plan, your insurance would go up by $1,800 for the year for a family of three. So I am doing everything I can. You know, we live in a State that is the first State in the Union to be a majority of minorities. What most people don't know, don't want to know, is most of our immigrants don't come from across the southern border, they come from across the Pacific Ocean. Vietnam—you have heard of some of these places—Korea, Japan, China, and they come with their own needs. We try to accommodate human beings in our State. Our State is the largest State in the Union, and we are suffering like many other States, but we are suffering to provide the necessary needs of our citizens.

We say for all Americans, we can quibble over whether they are here legally or whatever, but what we are trying to do is provide quality health care for Americans.

So I don't understand those people who are ranting and are outraged. They believe the lies they have been told.

Mr. ELLISON. I talked to some of the people walking around today. I was impressed with how good and decent many of them were. Many didn't have the facts straight. Many were suffering with real problems with health care. I think we need to take the time to talk to people. The fact is everyone knows there are certain TV people and radio personalities, and I am not even going to give them credit by mentioning their names, but these people, because of entertainment and ratings, they try to play on tear and whip up anxiety among Americans who are just trying to put food on the table. So they get scared.

People want to express themselves politically, but the leaders in front of them are not giving them good alternatives, they are just giving them fear. They are saying, Be afraid of those immigrants. Be afraid of those people over there who are not the same religion as you. Be afraid of these people over here. Just be afraid. As people are afraid, they are easier to manipulate. We ask people to overcome their fear and get the facts.

If I may just offer a few more critiques of the Republican bill. Here is what The Washington Post said: Amazingly, the Democratic bill has already been through three committees and a merger process. It is already being shown to interest group and advocacy organizations and industry stakeholders. It has already made compromises and been through the legislative sausage grinder. And yet, it covers more people and saves more money than the blank-slate alternative proposed by House Republicans.

Now I just want to ask the gentlelady from California, we have been working on health care for a long, long time. I have had to deal with angry folks at angry community meetings. People are worried. They are concerned. We have walked through that fiery furnace and done those tough town meetings. We have withstood all of that. You would think that our bill would be watered down to the point where it couldn't help anybody, but that isn't the case. The Democratic bills covers 12 times as many people and saves $36 billion more than the Republican plan. How can that be? The Republican plan, which was just recently introduced to the American people, actually doesn't save as much money and doesn't cover as many people as the Democratic plan when they are just getting started.

You and I know when you first introduce a bill, it is just going to get sandpapered. People are going to wear it away. People show up and say, I don't like this part, and I don't like that part. After a while, your bill used to be here, and it is getting less and less. It doesn't meet as much of your vision, but that is okay, that is democracy. We have to come in here and we have to give and take and try and consider everybody's interests.

But this Democratic bill, having gone through a very rigorous process of democracy, the writer here calls it a sausage grinder, still saves way more money and covers way more people than the Republican bill. I want to know, how can that possibly be? Where are these great ideas we have been hearing about?

You remember during President Obama's speech in this very room, they're holding up pieces of paper, here is our plan, here is our plan, and they come up with a plan that is more expensive and doesn't cover as many people as the Democratic plan. There is a reason why the American people voted overwhelmingly to send Democrats to Congress last November because this is the best they could come up with. It is actually quite embarrassing. I feel a little bad for them.

I yield back to the gentlelady.

Ms. WATSON. I always say be a seeker of truth. I taught school for many years. I told my youngsters, you need to reason. Let's think this through together. I can tell you anything. Seek the truth. Check it out. When it is said that we are going to take benefits away from seniors, that is untrue.

When it is said that government, who fails at everything it does, you know, how are they going to do this, we are not running the program. What we do is allow citizens to come to the marketplace and choose a plan, A, that they can afford; B, that is accessible; C, that will allow them to get into the coverage even if they have asthma, even if they had breast cancer, even if they have diabetes, they can come in and be covered.

You can say to seniors under our plan, when you hit that doughnut hole, you won't go through the hole and hit rock bottom because we are going to close that hole.

Mr. ELLISON. Which party was in power when the doughnut hole, the doughnut hole that people are falling into that needs to be fixed and is going to be fixed by the Democrats, what party was in power when the doughnut hole came to be?

Ms. WATSON. The Republicans were in the White House, they had the Senate and this House. I was in here. We were in here until 6 in the morning. I

watched them browbeat one of the Members. She had voted, and they brought her back and huddled around her, and she was in tears until she changed her vote.

That was the worst thing we could do for seniors because when they fall into that hole after they have spent $2,700, they fall into that hole and they cannot afford to buy food or to pay their rent if they are going to buy their prescriptions that keep them living day by day.

Why should an American, and particularly our seniors, have to make that kind of choice? We are not playing with this. You know, I have heard people say they have done it in secret in some dark, smoky room. It has been up on their e-mails, it has been up on their computers for weeks. There is a process that you go through and you do not violate the process in Congress. Every bill that comes out of a committee has to be heard, and most Members have time to speak to that bill and most Members vote on the bill with an audience out there.

And if the bill gets a number of votes, then it leaves that committee. It might go to another, but everyone knows the process.

Now they are saying well, you've taken three bills and you are blending them together and we don't know what is in those bills. I have even heard Members come up with these thick stacks of paper and say look at this. Well, when you write law that you expect to impact on Americans, you better put everything in there you mean, and that is where you use the word ''shall.'' I heard the minority leader say, Do you know how many times they used the word ''shall''? Well, if you want it to be law, you need to say ''shall.'' If you don't mean for it to become law, then you can make it permissive and say ''may.'' Let's explain the process to our people. Let's not keep the people ignorant. Let's educate them. As an educator, that is what I want to do.

To finish, I want to let our seniors know that the majority of people in this Congress know that our health care system in this country is broken and we want to strengthen what is working. Medicare has provided health care for Americans age 65 and older for the last 44 years, and it is working. When they say they want a coverage like ours, we are covered under Medicare. And it will be strengthened under the House's reform legislation. The reform will mean better benefits at lower cost and will preserve Medicare solvency for years to come. And without reform for all Americans, health care costs will keep rising and could jeopardize Medicare's ability to keep covering the costs.

Rising costs hits seniors, their wallets, too. And so with the average part D plus part B premium consuming an estimated 12 percent of the average Social Security benefit in 2010, and it will be 16 percent by 2025, so we know that the debate on reform has been intense, but it is a good thing. Let's get this all out in the open and then let's correct the misstatements. Let's be sure that we educate the people with the truth, and just know that nothing has been done behind closed doors that you have not heard.

We can debate it on this floor, and we are going to do that. So I want to end by saying we can have a better America. We can keep our people healthy. We can have peace, but it starts here. And we need to come together as a House of Representatives; not as Democrats, Republicans, Independents, fighting each other. We can express our positions, and we can do it with comity. We can do it with collegiality. We can do it by listening to someone else's position.

I am going to truly close, but when I held my last community forum, I said: All of you have the right to be heard, but you don't have the right to disrupt and block me from hearing you. So if you do that, then you will be escorted toward the door. If you have a question, write it down. Be proud of your question and put your name on it. If you don't put your name on your question, it goes to the bottom of the list. So we will listen to you and respond to you, but you cannot block the communication.

So what we are doing is trying to communicate with Americans out there in the field. We are going to express the truth the best we can. Thank you so much for having tonight's Special Order. We really appreciate your commitment and your dedication.

Mr. ELLISON. I thank the gentlelady and appreciate the gentlelady's remarks about collegiality, and also the gentlelady reassuring our seniors about what is really in the bill. This whole fear thing about scaring seniors about taking away their Medicare, I really don't appreciate. My dad was born in 1928 and my mom was born in 1938. Both of them are folks who would be classified as seniors, both very active, vibrant people, and both of them definitely active at the polling places and voting.

□ 2045

And they've actually asked me, Is this really true? And I have to explain, Mom, no, it isn't true. But the reality is this is a campaign tactic to try to scare seniors and try to scare all kinds of Americans. I'm of the mind that, let's not use fear tactics, let's use logic and truth.

Here's a few facts:

The House Republican bill will cover just about 3 million more Americans over the course of 10 years. Today, 83 percent of the nonelderly Americans are insured. Under the GOP plan, 83 percent of nonelderly Americans would still be the proportion of the uninsured in 2019. No change.

So I ask the gentlelady, look, if the problem today is the high percentage of the uninsured, people who are authorized to be in America and people who are nonelderly, if the proportion of uninsured is 17 percent, shouldn't we be better off in 10 years? Under the Republican plan, we will not be. I think that is a complete failure of their effort.

The Affordable Health Care for America Act put forward by the Democratic-led Congress extends coverage to 36 million more Americans. Today, 83 percent of the nonelderly Americans are uninsured. Under the Democratic plan, 96 percent of nonelderly Americans will be insured. That's what I call success. I hope some of our friends on the other side of the aisle come on and join this plan that's good for America.

The House Republican bill does not reduce the number of people who must buy insurance on the individual market because they're self-insured, don't have coverage of their employer, or lose their jobs. This segment of the market now pays the highest premiums and consumer abuses by the insurance industry. No change in this unfair practice.

The Affordable Health Care for America Act put forward by the Democrats creates a health insurance exchange with a public plan as one of the choices people have that provides competition and offers large group rates to employees of small businesses, entrepreneurs, and Americans looking for jobs. Under the Democratic plan, affordable options and affordability credits make all the difference, something the Republican plan—even though they've had all this time to think of something good, haven't been able to think of anything good at all.

Preexisting conditions. The Republican bill fails to require insurance companies to end the practice of discriminating against Americans with preexisting medical conditions. Let me just say this one more time, Mr. Speaker. The Republican bill fails to require insurance companies to end the practice of discriminating against Americans with preexisting conditions.

There's no wonder that they have and will spend their time this evening talking about the divisive, polarizing issue of abortion, this very important issue which has Americans of goodwill arguing both relatively strongly held positions, trying to get us fighting over that when we're talking about health care reform. They say, Don't worry about this health care reform. Let's talk about this divisive issue that has divided Americans for so long. This is not a bill about abortion. This is a bill about health care reform. Why don't they want to talk about that fact?

The Republican bill does not repeal antitrust exemptions for health insurance companies. Why not? The Republican bill does not repeal antitrust exemptions for health insurance companies. Why do they want to protect the health insurance companies? Why don't they want the health insurance companies to compete? Who is getting PAC money from the health insurance companies? Let's find out.

The House Republican bill does not include provisions to stop price gouging by insurance companies. Why not? The Affordable Health Care for Americans Act put forth by the Democrats—and, again, we've only had the White House for a few months and only had this Chamber, been the majority in the House for a couple of years; not long. We haven't been here long, but even though we haven't been here long, we've come up strong, because this bill, the Democratic bill, ends discrimination against Americans with preexisting medical conditions. The Democratic bill finally ends the antitrust exemption. The Democratic bill gives States $1 billion to crack down on price gouging by health insurance companies.

The fact is American consumers and small businesses deserve better than what the Republican bill offers to them. The Democratic bill, the Affordable Health Care for America Act, is a fiscally responsible bill that will reduce the deficit by $104 billion over 10 years; way more, way more, $36 billion more than the Republican bill. And I want to know, if the Democrats can face this very difficult process that we've gone through all summer—I had health care forums in my district and so did the gentlelady from California. Some people came up very upset because they've been listening to some of these radio guys and some of these TV guys scaring them and giving them misinformation, so they come into the meeting upset, loaded for bear. They want to talk to me. I want to talk to you, Mr. ELLISON. But when the facts come out, they're like, Oh, okay, I get it now. And we just ask people to keep their minds open.

I just say that if the Republicans have a real alternative around health care, how come they didn't come up with anything in the House from 1994 to 2006? Nothing did they come up with. Oh, they did veto SCHIP. We've got to give them credit for that. Vetoed SCHIP. Vetoed State Children's Health Insurance Program; can you imagine that? Oh, my goodness. I think that that is not good service to the American people.

I do hope we get some Republican votes on this bill because I think there has got to be some Republicans who say, You know what? Skip all the bickering. The Democrats have been open to our ideas when we offered them, but we didn't offer them because we would rather beat the Democrats at the polls than give Americans real health care reform. Think about that. They would rather beat the Democrats at the polls and try to use this as a political thing rather than say, You know what? We're going to do something for the American people. Oh, my goodness.

Let me turn to this poster board I have here. The Democratic bill—let's set the record straight. Here's a myth: The Democratic bill will hurt small businesses. Not true. If you heard it today or if you hear it later today, don't believe it. Small chemical facilities are already regulated by the DHS. The bill requires DHS to assess potential impacts of IST on small businesses. And $225 billion in grant funding is available for small businesses.

This will interfere with business operations. The fact is is that this bill will not interfere with business operations, it will not be a boon to plaintiffs' attorneys, and it will not do any of these things that are claimed by the Republicans over and over and over again.

We hear the Republicans say we need to have tort reform. Let me just say, if you have a loved one who has a medical error, you have a right to go to court over that. Don't let anybody scare you away from your right to go to court when a doctor or a hospital fails to meet medical standards.

Ms. WATSON. Would you yield?

Mr. ELLISON. Yes, I will.

Ms. WATSON. You know, it's always very interesting to me. I sat on the Judiciary Committee for 17 years and I carried the California trial lawyers' funding bill every other year. And of course opposition would say, frivolous. Well, if your right leg was amputated and the condition was in the left leg, they amputated your right leg, the first thing you would do is run to get the most high-powered lawyer you could and you would sue the doctor and the hospital out of business. So you can say frivolous cases, but when it comes to your own health and the health of your loved ones—and I haven't seen a company without its set of lawyers. So we use them when we want to be sure that the law works on behalf of ourselves and our loved ones. If it's for somebody else, it's frivolous. So let's think about what we're saying with tort reform.

And we can lower the cost if we have quality health care, meaning we have quality personnel. And do you know there are provisions in our bill that will help to subsidize medical students that want to go into primary care? And so we want to build a whole cadre of quality health providers that will practice medicine on behalf of the human interest to keep our people healthy.

So when we talk about tort reform, let's think it all the way through and don't treat it in a frivolous way.

Thank you very much, and good night.

Mr. ELLISON. Well, let me just thank the gentlelady for that, because the reality is that Republicans are saying, Oh, we have a plan on tort reform and we want to give tax cuts and tax breaks—they've been talking about fragments of their plan for a long time, but when the reality of their plan came out, it was pretty dismal. I mean, here's what Ezra Klein says, of the Washington Post: Republicans are learning an unpleasant lesson this morning. The only thing worse than having no health care reform plan is releasing a bad one, getting thrashed by the CBO, and making the House Democrats look good.

We want to thank you for that.

The Democratic bill covers 12 times as many people and saves $36 billion more than the Republican plan. The New York Times, the Budget Monitor says: GOP leaves many uninsured.

Again, the Congressional Budget Office said Wednesday that the alternative health care bill put forward by House Republicans would have little impact on extending health benefits to roughly 30 million uninsured Americans. You can go right down the ranks, but piece after piece shows that this Republican plan that they released is abysmal.

I want to have some conversation about the Republican plan, because they've been beating up on the Democratic plan from the very beginning, yet it has gone through three committees. It has had a merger process. It has been beaten and smashed and attacked, and yet, still, still the Democratic bill is far and away superior to the Republican plan, maintains its public option. The fact is I think the American people are really going to start seeing who is looking out for their health.

Let me turn now to a few health care stories if I may.

A good friend, Amy. Amy says, ''I'm a graduate student working part-time at a restaurant. I applied for individual health insurance through Medica, hoping to pay their nice low rate, $99 a month for a pretty good plan and a fairly low deductible; however, Medica denied my individual application because I marked on my application that I have anxiety and take medication for it. It is a little ironic; not having insurance gives me more anxiety.

''I was recently approved for group health insurance through a company that owns the restaurant I work for. However, to stay on the group plan, I have to maintain a workload of 24 hours a week on average over a year, which can be hard to do as a full-time student. This group insurance is through Medica, and I will be paying $95 each month, which is affordable for me. However, I got a letter from Medica saying that my anxiety is considered a preexisting condition, so any treatment or medication for it will not be covered for a year. After 1 year, I can appeal for coverage. In the meantime, I will continue to pay for my medication out of pocket and not go to therapy because it will be too expensive.

''Please pass Federal health care reform that includes a public health insurance option that is affordable to middle-income families in Minnesota.''

This young lady would not be barred from getting health care insurance because of her anxiety, which the insurance company called a preexisting condition, yet under the Republican plan she still would be.

David from Minneapolis: ''I am a small business owner and do provide health care to my employees, but this is a serious financial risk to my company. It's a moral issue, so I don't want

to cancel health insurance, but I might have to in order to survive. It's scary to think about not being able to provide health insurance for employees or going under as a business. Knowing that I would always have access to reliable, affordable health care would relieve my fears.

''I would like to tell those who oppose health care reform that this is a moral issue. We should be taking care of each other. It's an embarrassment to our country to be one of the wealthiest countries and not have health care for all. Please pass Federal health care reform that includes a public insurance option.''

□ 2100

We've been joined by JARED POLIS, who is an excellent advocate for the people's rights. He has been very vocal and has been a strong advocate of health care reform. I want to turn it over and yield to my friend from Colorado (Mr. POLIS).

Mr. POLIS. I would like to thank Mr. ELLISON, certainly, for the kind introduction and for sharing very powerful stories.

I have had the opportunity to share a number of stories on the floor of the House of Representatives, and these are all real people who are impacted. I think that, perhaps, my colleagues in the House and those watching us can see in themselves some of the experiences that American families go through.

We're not just talking about the uninsured out there, some mysterious group that you're not a part of because you might have insurance. We're talking about American families, American families who are worrying because one of the parents lost a job; we're talking about soccer moms; we're talking about people with preexisting conditions.

I want to briefly talk about immigration in the context of immigration and health care reform. I received some false information from an anti-immigrant group. The name of this group is the Federation for American Immigration Reform. They're actually a group that fights against immigration reform, but their name says that they're for immigration reform.

They believe—and I believe that similar comments have been echoed on the floor of the House of Representatives—that there is in the health care bill before us something that allows illegal aliens to game the system and to access taxpayer-subsidized health care benefits.

What they're seeking to do—and it would significantly raise the cost of the bill should they succeed—is to prevent our undocumented population, some 12 to 15 million people who reside in our country and who contribute in so many ways, from buying insurance through the exchange.

Now, remember, the ''exchange'' is something that doesn't exist today. It's set up under law. It is not subsidized health care. It is where small businesses or individuals will go. They, of course, will pay the full market rate. There will be many private companies that will participate in the exchange and that will design products for the exchange. It is not a benefit. It is simply a marketplace. We've never before barred anyone from being able to purchase a product like health insurance at full price because of one's citizenship or immigration status, nor is it good policy.

I think that many of us on both sides of the aisle would agree that we shouldn't have as large an undocumented population as we do. I dare say we shouldn't have an undocumented population at all. There might be different solutions to that. Mine would simply be to normalize the status of those who are here, who work hard and who contribute so much to our country. My colleagues on the other side of the aisle, who also agree we shouldn't have a large undocumented population, might, in fact, have a different solution to that.

Insofar as they are here, we should, all of us, regardless of where we stand ideologically, want them to buy insurance with their own money if they are willing to. They certainly all won't; but to the extent that they do, they are less of a burden on the rest of us. Anybody who would seek to prevent them from accessing the exchange, which will really be ''the place''—''the place'' for individuals to buy insurance—effectively is saying that taxpayers should subsidize illegal immigrants.

Frankly, I think that there are many across the country who have a problem with that. To prevent undocumented immigrants from being able to buy insurance from the exchange is saying that taxpayers should pay for their health care. They're going to go to the emergency rooms. They won't have insurance. The costs will be shifted to the rest of us and to taxpayers. We should encourage our undocumented population to buy insurance with their own money. Again, I don't think all of them will, but some of them will. That's a very good thing, and I'm very hopeful that many undocumented immigrants will participate in this exchange.

The exchange makes health care affordable for individuals. Right now, we have an issue where individuals don't have the buying power of big companies. If you have a preexisting condition, which is that scarlet letter that so many residents of our country wear, forget about it. Whether you're a citizen or a noncitizen, if you're an individual, the exchange will allow you to pool your risk. The exchange has the buying power that previously has only been enjoyed by large corporations. It allows one to negotiate the very best rates with insurers. Once again, the exchange is not a benefit. It is not a product.

Mr. ELLISON. I just want to say thank you, Madam Speaker, for allowing us the time for the Progressive message. I yield back the balance of my time.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2847. An act 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.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2847) ''An Act 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,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. INOUYE, Mr. LEAHY, Mr. KOHL, Mr. DORGAN, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, Mr. NELSON (NE), Mr. PRYOR, Mr. BYRD, Mr. SHELBY, Mr. GREGG, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. VOINOVICH, Ms. MURKOWSKI, and Mr. COCHRAN, to be the conferees on the part of the Senate.

HEALTH CARE REFORM

The SPEAKER pro tempore (Ms. PINGREE of Maine). Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes.

Mr. GINGREY of Georgia. Madam Speaker, I thank you for the time, and I thank my minority leadership for the time.

We will spend our hour talking about health care reform; and we will try to compare and contrast, Madam Speaker, many of the policies that were just described by our colleagues on the Democratic side of the aisle, by the majority party Members: the gentleman from Minnesota, the gentlewoman from California, the gentleman from Colorado. A number of statements were made in regard to their bill, the Pelosi health care bill, the 2,000-page bill. In fact, Madam Speaker, I have that bill behind me, and we'll take a look at it in just a few minutes.

We certainly want to talk about the 261-page bill, Madam Speaker, which is the Republican alternative that, indeed, as we know from a letter that we just received yesterday from the Director of the Congressional Budget Office, across the board, the Republican alternative lowers the price of health insurance premiums on an average of 10 percent. I'm not sure that my colleagues who have left the floor now—and if they were still here, I would be happy to yield them time, but I'm not sure that they can say that with regard to this massive, monstrosity of a bill of

over 2,000 pages that they are going to have on the floor of this great body on Friday, tomorrow, to debate and on Saturday morning to vote on, the outcome of which, of course, remains to be seen.

Madam Speaker, I wanted to take a little time, though, at the outset to talk about the thousands and thousands of great Americans who came to Washington today to bring a message to this Congress—a message to their Members on both sides of the aisle but especially on the Democratic majority's side of the aisle—to tell them how strongly they are in opposition to the Federal Government's taking over our health care system lock, stock and barrel.

Madam Speaker, I had an opportunity with many, many of my colleagues, led by Mr. ELLISON of Minnesota, the gentleman who just spoke; his colleague from the great State of Minnesota, Representative MICHELE BACHMANN; and others. There were many who worked very hard in putting that together and in encouraging people to come to Washington—to take time away from your jobs, away from your families. There were many physicians in the group. They did it. They did it. We had an opportunity to speak to them.

When I took my minute or so, Madam Speaker, I said to them, You know, you're bringing a second opinion. You are practitioners of common sense. You are practitioners who love freedom and liberty. You've looked at this bill. You've probably read it. You've probably read more of it than have most Members of Congress, and you have made a diagnosis. You have taken the medical history, and you have done the physical examination. You have checked the pulse of the American people, and you have found it strong. You have checked the blood pressure of the American people, and you have found it, Madam Speaker, rising. You have taken a stethoscope, and have listened to the heart of the American people, and you have heard it pounding, pounding for freedom and liberty; and you have made a diagnosis, and you have written a prescription.

Madam Speaker, these tens of thousands of people who were here today brought that prescription to Capitol Hill, and here is what it said:

Dispense no taxpayer money to fund abortions. Dispense no taxpayer money to provide government subsidies to illegal immigrants, despite what my colleagues on the majority side of the aisle have said. Finally, that prescription said: dispense not one dime of my hard-earned taxpayer money to allow the Federal Government to take over our health care system and one-sixth of our economy, and come between me and my doctor. That's the prescription that these great Americans came to Washington to bring today.

I hope, Madam Speaker, I hope that the Members of Congress on both sides of the aisle but especially within the majority party—because, after all, it is your bill that's going to be voted on, not our bill. We have a bill. It will be a motion to recommit—a substitute, if you will—of 261 pages, which brings down the cost of health insurance across the board on an average of 10 percent. I don't think that they can say, Madam Speaker, that you can say, that the majority party can say, that your bill does that. This bill, according to the Congressional Budget Office, saves $61 billion over 10 years.

Now, Madam Speaker, I heard my colleagues say just a minute ago that their bill, which is the Pelosi bill, saves $100 billion over 10 years, but the Congressional Budget Office, again, that bipartisan group of expert economists who works for the Congress, the Director of whom is hired by Speaker PELOSI, said it's going to cost to create this legislation $1.55 trillion over 10 years.

So, my colleagues, if you save $100 billion but you've spent $1 trillion, do the arithmetic. This is not calculus. It's certainly not brain surgery. You have spent a whole lot of money saving $100 billion. In fact, my math tells me that you're kind of in the red there about $900 billion. It's ludicrous. It's absolutely ludicrous.

I say again, Madam Speaker, to those folks who came up—to those great Americans who came today on buses and in cars and on planes, many of whom traveled 16 hours—and I met some great Georgians from my State. They're folks I had talked to last weekend when I was home, and I encouraged them to come. They did. They came. A contingent of the disabled came. I was so proud to see them.

This was not a mob, Madam Speaker. These were not thugs. I'm not suggesting that you or any Member of this body has referred to them in that way, but certainly the media has; the press has—and it's insulting. It was insulting back in August when all of these seniors showed up for these town hall meetings. Every Member was describing town hall meetings that had 10 times as many people as they had ever seen before. It's true for me in my district, and I'm in my fourth term. It's true for others. We'll hear from Congressman JOHN BOOZMAN from Arkansas, and we'll hear from Congressman PAUL BROUN from the great State of Georgia, from Athens; and they'll tell you the same thing.

These were nice people. These were senior citizens. These were Medicare recipients, and they were scared to death, and they are scared to death today. I know that, of those who couldn't come, many of them maybe are shut-ins and who for health reasons were not able to come but would have loved to have been here. You were well represented, and you will be well represented in this Chamber come Saturday morning when it's time to vote.

My colleagues on the other side of the aisle referenced back to the days in 2003 when we added a prescription drug benefit to Medicare, which is something that our seniors have been wanting for so many years, long before I even thought about running for Congress. The problem, of course, was that in 1965 when Medicare was enacted, the emphasis was on surgical procedures and on hospitalizations, and we didn't have all the wonder drugs back then, 40-something years ago, that we have today.

□ 2115

So why was a prescription drug benefit so important? Why did the Republican majority at the time spend so much political capital giving that to the American people and our 40 million of them who are on Medicare?

It's because they couldn't afford it. The price of these prescriptions had gone up, these wonder drugs, research and development, very expensive. And people were halving the dose and in many cases not taking their medication if it ran out before the month was over and they had to wait 2 more weeks to get another prescription. And the people with high blood pressure were having strokes. The people with high cholesterol were having heart attacks. The people with diabetes, which was out of control because they couldn't buy their insulin, were having their limbs amputated. People with kidney disease were ending up on dialysis machines and in a long cue maybe for a renal transplant.

We, in a very compassionate way, Madam Speaker, passed Medicare part D so that these seniors could afford to have those prescriptions filled and to take them in a timely way. And I stand here today very proud that I voted ''yes'' on that bill on this House floor in the wee hours of that morning, yes. A very close vote because all the Democrats were voting ''no.'' All the Democrats were voting ''no.''

But what this bill has done has given them affordable prescription drug coverage. And it will keep these seniors, more importantly than the cost, out of the emergency room. It will keep them off the operating table. It will keep them out of a long-term skilled nursing home where they might be for life having had a massive stroke because prior to 2003 they couldn't afford the blood pressure medication to lower that blood pressure to a safe range. So, yes, I'm proud of that. I'm very proud of it.

Our Democratic counterparts, Madam Speaker, then in the minority, they fought it every step of the way. And they absolutely insisted, until the final moment when they knew that they couldn't accomplish it, they wanted the government to step in and control prices. They wanted government price control then and they want it now. It wasn't necessary then, Madam Speaker and my colleagues, and it's not necessary now.

The free market works in this country. It always has and it always will. The monthly price of those prescription drug plans, on average, was $24

when the Democratic minority said that it would be $40. In fact, the Democratic minority wanted us, the Republican majority at the time, to agree to set the price at $40 a month. We wouldn't do it because we knew, Madam Speaker, that the free market works and we wanted to see that competition without the heavy hand of the government in there being a competitor and a rule maker and a referee, just exactly what your party and its leadership, Ms. PELOSI, the Speaker; Mr. REID, the majority leader; and yes, President Obama—they want the heavy hand of the government in this bill.

And what they really want, and I imagine if any amendment is made in order, it will be the one that will be proffered by our friend from New York (Mr. WEINER) from my Energy and Commerce Committee and part of the majority party, an amendment that would have a single-payer national health insurance program. Socialized medicine.

If we see any amendment, Madam Speaker, I am going to predict that that will be the one that will be here because, in fact, they want to make that statement one last time. They won't have quite enough votes to pass it, but there will be a significant number. And I think my colleagues certainly on our side of the aisle, we understand that. We understand what the plan is. And the American people understand that. But the majority party and this President and this administration and all the folks that are advising him, many of whom I guess advised President Clinton and his wife, Hillary, 15 years ago, they don't seem to get it. Maybe they're not going to get it until that first week in November of 2010.

We've got a lot of things to talk about tonight, Madam Speaker, and I am pleased and honored to have my colleagues join me. The hour is getting late. A lot of times folks at this point in the evening are ready to go home and get a little rest, do a little reading before they go to bed and face a long, hard, tough day tomorrow. But they're here. They're here tonight. That old saying ''miles and miles and miles to go before I sleep.'' I'm not sure which of our poets wrote that. Maybe it was Robert Frost. But my colleagues are with me tonight because they know how important this is.

They know that they are the sentinels. And we're going to fight this thing, and we're going to do everything in our power to stop it because we know it's wrong. It's the wrong prescription for America.

Let me at this point, Madam Speaker, yield to my good friend and fellow doctor from the great State of Arkansas. Dr. BOOZMAN is a part of the GOP Doctors Caucus. We have been meeting on a very regular basis during this entire 111th Congress. We're 11 months into it now. Time really flies when you're having fun. But this group has, I think, brought a lot of knowledge to our side of the aisle on this issue. We have tried desperately to have an opportunity to meet with the President. We've sent letters. He said the door was open, but if the door was open, unfortunately the several gates getting to the door were closed.

But I'm honored at this point to yield to my good friend from Arkansas, Dr. JOHN BOOZMAN.

Mr. BOOZMAN. I appreciate the gentleman from Georgia yielding to me.

I also want to thank you for your leadership on the Doctors Caucus as one of the co-Chairs. You've done an outstanding job.

I think one of the reasons that's so important, I think the reason that we had so many thousands of people up here today—and I would just echo your sentiments about the importance of that. As I looked around, I saw all of these predominantly middle-aged and seniors that had made a trip, made a tough trip in many cases from all over the country. I think it's due to the fact that we've worked very, very hard as a conference. And under your leadership as one of the co-Chairs, I think the Doctors Caucus has done a good job of trying to get accurate information as to what this bill actually does.

We did a town hall teleconference 2 days ago. And as you said, there are many people all over the country that would have loved to have been up here today, but they couldn't get up here. And we did a poll during the course of that teletown hall. We had 12 percent for, 75 percent against, 13 percent undecided. And I think if we had done that a few months ago, the numbers wouldn't have been that great.

The more the American people learn about this bill, the unintended consequences that are going to occur, the more they don't like it.

The gentleman talked earlier about somebody working in a place and was a part-time employed person. The reality is that under this bill, as you start taxing small business the way that it does for full- and part-time employees where you don't offer good enough insurance by government standards, many of those jobs are going to disappear, and this truly is a job killer.

I'm going to go ahead and yield back because I really want us to talk about our alternative versus what's being presented. I want us to talk about the fact that we're not cutting Medicare. I have got 25,000 Advantage patients in my district. Our bill does not cut them in any way. That program goes ahead and continues on. Then I also want to talk about the effect on small business, our bill cutting the insurance rates versus taxing small business in the other plan.

Mr. GINGREY. Reclaiming my time, I thank the gentleman and I hope the gentleman will stay with us so we can continue——

Mr. BOOZMAN. Yes, very much.

Mr. GINGREY. Because I do want to hear from Dr. BOOZMAN in regard to the Republican alternative and some of the unique things that he's talking about. And I mentioned, of course, the CBO score and that's fantastic. But I think it is important for our colleagues to know, especially those who are undecided. And quite honestly, I think, Madam Speaker, there are a lot of undecideds.

I know there are many caucuses in the Democratic majority. You have 257, something like a 40-seat majority over us Republicans. And you have those many caucuses. You have the Hispanic Caucus. You have the Congressional Black Caucus. You have the Progressive/Liberal Caucus of which Speaker PELOSI is, I guess, the titular head. And then you have the Blue Dog Caucus, some 52 members, who many of them, Madam Speaker, and I know you're aware of this, hold seats that Candidate Senator JOHN MCCAIN carried in the 2008 election. So their districts, Madam Speaker, are not unlike mine. And I won my last election, my third re-elect fourth term with 69 percent of the vote. And I know that many of these Members are agonizing over their vote come Saturday.

Our colleagues earlier—I think the gentlewoman from California was here in 2003 when we had the vote on Medicare modernization and the prescription drug plan, Medicare part D. And she said some things that were accurate in regard to the length of the vote and the fact that it was a very close vote, and when the clock struck double zeros, there were still people undecided. And there was still a lot of persuasion going on. Maybe a little arm twisting, maybe a few calls from the President, the Secretary of Health and Human Services, a lot of weeping and gnashing of teeth. And then, of course, finally that bill did pass at 5 o'clock in the morning, as I recall.

I would say to the gentlewoman from California, you ain't seen nothing yet until we get to 2 days from now, on Saturday, when we're trying to—when I say ''we,'' I think most people on my side of the aisle, if given the opportunity to vote on our bill, would vote ''yes,'' every one of us, but I doubt if there will be too many of us voting for the Federal Government to completely take over our health care system.

And there's going to be some arm twisting and there's going to be some blood letting, not literally but figuratively. A lot of persuasion going on. So we'll see what happens.

I am also joined by a good friend who, like Dr. BOOZMAN, is a part of our GOP Doctors Caucus. Dr. PAUL BROUN is one of three doctors, three on the Republican side, from the great State of Georgia. Our other colleague who is chairman of the Republican Study Committee, 110 conservative Republican members, Dr. TOM PRICE chairs that group.

And I want to, Madam Speaker, mention the fact that Dr. PRICE was also very involved in this effort today to have this House call on Congress and bring these 15,000. In fact, Dr. PRICE moderated that and did an excellent job.

□ 2130

But Dr. BROUN has been wonderful on this issue, brings a tremendous amount of knowledge, plus about 40 years of clinical experience as a family practitioner who it comes as close to Marcus Welby as anybody I have met in years because he did house calls.

Madam Speaker, I will now yield to Dr. BROUN so that we can hear from him.

Mr. BROUN of Georgia. I thank the gentleman, Dr. GINGREY. I did house calls full time prior to coming to Congress in 2007, and I actually still make house calls.

I appreciate the people coming here today and getting in the house call business. They made a house call on the people's House, and I congratulate them on doing so because their voices were heard. The Constitution of the United States. I carry it in my pocket all the time. I believe in this document, as it was intended by our Founding Fathers. It starts out with three very powerful words.

Mr. GINGREY of Georgia. And if the gentleman will yield just for a second, just for the visual effect. Congressman GINGREY also carries it, and I think every Republican—this document is not what we describe as a living, breathing, changing document unless we do it under the rules of the Constitution by amendment, but I wanted to let the gentleman know that I, too, carry this every day.

I yield back.

Mr. BROUN of Georgia. Thank you.

The Constitution starts out with three extremely powerful words ''We the People.'' We the People are speaking, and they don't want a government takeover of their health care system. In Hosea 4:6, God says, ''My people are destroyed for lack of knowledge.'' Mr. Speaker, the Doctors Caucus and Dr. GINGREY have been trying to educate the people about the onerous effects of a government takeover of health care. I just want to mention a few of those things.

Dr. BOOZMAN, my good friend from Arkansas, was already mentioning the increased taxes and the attacks on small business. But this bill, if it's passed into law, is going to destroy our economy. It's going to destroy our economy because it's going to spend—right now CBO, with their zombie economics, is going to spend over $1 trillion. I call it zombie economics because you have to be a dead person walking around to believe the accounting procedures that CBO went about utilizing in evaluating this bill. But this bill has been scored by CBO as costing over $1 trillion. When Medicare was passed into law 40-some-odd years ago, CBO, when they evaluated it then, they missed the mark. In fact, Medicare, in the first decade, cost almost 10 times what CBO scored it, and that's exactly what's going to happen with this one. I think 10 times will be a conservative estimate of what the CBO is scoring it. It's going to destroy our economy.

The second thing it is going to do is it's going to destroy the State's budget. In Georgia, as the gentleman from Georgia, Dr. GINGREY, knows, we have a balanced budget amendment to our State Constitution. Well, this bill shifts a lot of cost in unfunded mandates to the State because it expands Medicaid. Georgia is already struggling to meet its balanced budget amendments and is already cutting services in the State of Georgia. This bill, for the State of Georgia, from everything I can tell, is going to increase the cost to Medicaid to the State of Georgia $1 billion. We don't have that kind of money. The State of Georgia is going to have to cut its services markedly or increase taxes.

Mr. Speaker, the Governors all over this country should be contacting every single Member of Congress in their delegation and telling them to vote ''no'' on this Pelosi bill that is going to take over the health care system. It's going to destroy States' budgets. It's going to destroy everybody's home budgets because taxes are going to go up on all goods and services, particularly health care services. But there is going to be taxes on every single small business and large business in this country, which means that those taxes are going to be passed through at an increased cost for every good and service in this country. So everybody, including the middle class, the poor people, those on limited income, the elderly are going to have to pay more for everything that they buy, for every service that they contract for. So it's going to destroy everybody's home budgets.

It's going to destroy our children's futures. It's going to destroy their futures because Congress is borrowing and spending dollars that our children and our grandchildren are going to have to pay for. So we're stealing their future.

Scripture says in the Ten Commandments, ''Thou shalt not steal,'' and I call on this House to stop stealing our children's and our grandchildren's futures.

Mr. GINGREY of Georgia. If the gentleman will yield back to me, and I think that is a very, very good point. Mr. Speaker, I agree with the gentleman that it, indeed, is stealing our children's futures to have a current debt of $11.2 trillion. A trillion, you can't imagine. I've heard Members describe what $1 trillion is. I won't try to do that tonight. It's unfathomable. Our current debt is $11.2 trillion.

It's estimated that in the next 10 to 15 years, if we continue down this road, that debt will be $24 trillion. We'll be paying more interest on the debt than we do on discretionary spending. We'll have no money to defend our country. In talking about that Constitution, when you really look at it, there is nothing in here about spending trillions of dollars for health care or for education, but we just keep spending and spending.

But I did want to take this a step further before yielding back to the gentleman from Arkansas, Dr. BOOZMAN. We're not only stealing our children's and grandchildren's futures, Dr. BROUN—and I know you know this—we are stealing their present. Now, let me explain.

First of all, Mr. Speaker, the irony of that is that in the cohort of people age 18 to 29 in this recent election, 66 percent of them voted for then-Senator, now-President, Obama. They elected him. In the 18- to 29-year-old cohort, 66 percent. Of that group, Mr. Speaker, that's the highest plurality for a President ever from that age group. I don't impugn their motive or their vote. That's what's great about this country. I'm not sure why each and every one of the 66 percent made that decision. I'm sure they were, as I was, impressed by then-candidate Senator Obama's youth, his energy, his charisma, his communication skills, and he made promises. He made attractive promises. You know, after 8 years of an administration, people are ready for a change, and he promised them change. Indeed, I think he said a change that they could believe in. My English teacher would have changed that and said a change in which they can believe. But in any regard, it made a good sound bite.

Shortly after the President was elected and inaugurated, the President was asked by the media or asked by the minority about these policies of massive government expansion in every sphere, and his response was a glib, Elections have consequences.

Mr. Speaker, indeed, elections have consequences. That's what I'm talking about, Dr. BROUN, in regard to robbing our youth not only of their futures but of their present, because this bill that guarantees community rating and universal coverage, it drives up the cost of health insurance for all of our young, healthy 18- to 29- to 39- to 45-year-olds who are taking care of themselves, who are exercising, who are not overweight, who don't smoke. Today, they're able—in most States—to be able to get affordable health insurance because their lifestyle is less risky and because their age is less risky.

What the President and what Speaker PELOSI and Leader REID and the Democratic majority want to do is have a one-size-fits-all, where the costs for people that are in their fifties—obviously not eligible yet, Mr. Speaker, for Medicare—it will lower the cost of health insurance for them, and that's a good thing. But at the same time, it drives up significantly the cost of health insurance for those low-risk individuals. In fact, today, many young people will choose a low premium, a low monthly premium, you know, maybe $100 a month, with a very high deductible, and they'll combine it with a health savings account. Under this plan, H.R. 3962, they will not be permitted to do that.

Mr. Speaker, we are robbing the future of the youth of America.

With that, I yield to my friend from Arkansas, Dr. BOOZMAN.

Mr. BOOZMAN. Let me just say that, again, one of the concerns that I have are the unintended consequences that are going to be as a result of the bill, as you are talking about now.

I had a gentleman call me, oh, a month or so ago, and he owns several fast food restaurants. Many of the people that he employs are part-time employees. They're high school kids going to school, working a little bit on the side, many, many college kids. He said that if this bill goes through and he's going to have to be responsible for providing coverage for all of those part-time employees—he provides the coverage now for the full-time employees—he simply can't do that. In this economy, that's so tough, you know. He's barely making it now. So the first thing he's going to do is start laying off those kids. So again, the unintended consequences of them not having a job, going to school and things like that, those are the things that we're going to see so much as a result of this.

I will give you another example. This bill hits community hospitals very, very hard. The only way that you can save money is to consolidate. In Arkansas, and I know in Georgia where you gentlemen are from, there are many, many community hospitals. You start consolidating. You start ratcheting back on your community hospital. That's probably the best jobs in that community, you know, well paid and all of the ancillary things that they buy and things. It is a big part of the economy. You lose your hospital. It's not too long that you lose your physicians? You lose your doctors, you lose your providers. You lose your providers, and then at that point, you really start talking about losing these small communities.

So again, there are so many things out there that this is such a huge deal. You can be for this or against it, but the reality is that it truly is a massive increase in government.

Mr. BROUN of Georgia. Would the gentleman yield?

Mr. BOOZMAN. Very much so. The only other point I would make is that, from Washington, the important aspects of health care—who does what, who gets paid or whatever—are going to come out of Washington, D.C., versus from a myriad of places right now.

Mr. BROUN of Georgia. Well, I appreciate that, Dr. BOOZMAN. I practiced medicine for a few years in Blakely, Georgia, a town of 5,000 people. We had a small community hospital there. I moved from there to Americus, Georgia, which has 17,000 people; 25,000 in Sumter County, Georgia, both down in rural southwest Georgia.

We had a regional hospital in Sumter County, an excellent regional hospital. At the time I was there, we had a little over 30 doctors in Americus, Georgia. We had just about any specialty, except for neurosurgery and neurology, in that community.

Then from there, the Lord moved me to Oconee County, just outside of Athens, Georgia, where I still live today. Athens is a town of a little over 100,000 people. There are two hospitals in Athens, Georgia. St. Mary's, I am on the foundation board. I have worked with St. Mary's Hospital. It's a Catholic hospital. I have worked with them for years, trying to help provide care for indigents and people that don't have insurance and to help that hospital be viable. But we also have Athens Regional Hospital.

□ 2145

Now that I am a Member of Congress, I represent the northeast corner of the State of Georgia, and we have a lot of small community hospitals scattered through my congressional district in Hart County and Elbert County and Thomson, which is McDuffie County, and a lot of these, and I can go on. There are many small rural hospitals.

Now, back to something I just said earlier in Hosea 4:6: My people are destroyed for lack of knowledge. What it's going to do if the Pelosi bill, this one right here in front of me, is passed into law, small rural community hospitals all over this country are going to close down. Small communities are going to have all those people who work there be jobless. They are going to be put out of work.

Folks are going to have to drive miles and miles to those regional hospitals to get the health care that they so ably deserve. This is not a health care bill. This is a health insurance bill to set up—in fact, the President himself has said he wants to establish socialized medicine where the Federal Government is the only insurer. This bill is the step that they need to put that into place.

That's exactly why the progressives, I call them Marxists, because that's really their philosophy is Marxism or communism, socialism, is based upon, this bill is a step to go to that socialized medicine. But not only the health care markets and small community hospitals are going to be put out of a job. The President's economic adviser has said 5.5 million people are going to lose their job, so it's going to destroy jobs all over America.

Mr. Speaker, if the American people could see this document and understand how onerous it is, they would say ''no,'' and they should. This is the Republican alternative that's going to be considered on and voted on Saturday. Look at the difference in the size.

The Republican Party is the Party of Know, k-n-o-w, know. We know how to lower the cost of health insurance for everybody in this country and let the doctor-patient relationship be how health care decisions are made. This bill is going to put a bureaucrat from Washington D.C., making health care decisions for every single person in this country.

Mr. GINGREY of Georgia. Reclaiming my time, I think the gentleman is making some excellent points, but we do want to have a moment to talk about our alternative. Dr. BROUN is holding that up now, the 261-page Republican alternative that's fully paid for, that cuts insurance premiums on average by 10 percent across the board, according to the CBO, and saves $65 billion over 10 years.

I am going to yield back to Dr. BOOZMAN. Before I ask him to go through a couple of slides with us, I want to point one out to our colleagues, this second opinion. I talked about this earlier, about these great Americans that were up here today, as Dr. BROUN referenced. They were making a House call on the House, their House, the people's House, absolutely.

Their second opinion included, I talked about that prescription: dispense no money to pay for abortions, dispense no money to pay for illegal immigrants, dispense no money to let a big government bureaucracy take over our health care system and come between our great doctors and their patients, indeed, our constituents. But also in their second opinion they are going to say and they did say today, many of them are wearily driving back home now, but they said, and I point out in this slide: patients don't want government-run health care, period.

Now, I am going to yield to Dr. BOOZMAN for a few minutes, because I have got a couple of slides. I hope he can see those. He should; he is an optometrist. He knows about eyesight. I will lend him my glasses if he needs them. But we will go through a couple of bullet points and talk about things that people are outraged, Mr. Speaker, outraged over.

It's unbelievable, but I will yield to Dr. BOOZMAN and let him talk about it.

Mr. BOOZMAN. Well, again, our first point that it is not government-run health care, and we have alluded to that earlier. We don't federalize 16 percent of the economy. We don't cut seniors to pay for health reform.

Again, I have 25,000 Advantage members. The Advantage Program is so important to them. Also, the other Medicare cuts, you can't increase the population by 30 percent that you are going to serve, not give them any more resources. Something is going to give and the quality of care will suffer with the Pelosi plan.

It doesn't raise the deficit. Your fourth point, health care choices, not government mandates. Then, again, this is a bipartisan compromise.

The other thing I would add, I heard the discussion earlier, people from Arkansas, it just drives them crazy when they hear us talking about giving, allowing illegal immigrants to buy subsidized health care programs. I mean, that's something that they just don't understand.

I am very much opposed to that. I know that you all are very much opposed to that.

But, again, that's something that the majority of this country does not understand, why we would want to do that. Our country is struggling. We are barely—I get the phone calls, as an optometrist, a provider. I used to see people all the time that couldn't afford their health care. That's what we are trying to do to fix.

But the idea, like I say, of giving illegal immigrants subsidies such that they can buy makes no sense at all to the average American. That's one of the reasons so many people are opposed to this is things like this in the bill.

Mr. BROUN of Georgia. Some people may say that that's a racist comment you just made.

First thing, they are not immigrants. They are aliens, they are law breakers, they are criminals, and they need to go home. We certainly should not give them taxpayer subsidies, not only health care but a lot of the taxpayer subsidies, and they are getting them today. In spite of being against the law getting Medicaid, SCHIP, they are getting those things today because they have fraudulent Social Security numbers, fraudulent driver's licenses. They are criminals. They need to go home.

I want to tell you, I have been accused of being a racist by saying things like that. But I also volunteer as a medical doctor at a clinic called Mercy Clinic in Athens, Georgia, and the vast majority of people that come to that are illegal aliens, people who have no insurance. I have devoted my time, and there are 40-some-odd doctors in our community that devoted our time to go take care of sick people who need our help.

I have a heart for them, but I also believe in the law.

Mr. GINGREY of Georgia. Reclaiming my time, Dr. BROUN, as I referred to him earlier as a modern day Dr. Welby, I like the compassion, and I know that he treats people without regard of their ability to pay, and he is a good man.

I wanted to go back to Dr. BOOZMAN because we got into talking about the cost. This next slide, and I want my colleagues to look closely, please. I hope you can see this because these three bullet points are hugely important. I will ask Dr. BOOZMAN to begin to comment on the very first one.

Because on this chart, on this slide, this is how the Democrats, the Pelosi health reform bill comes up with the $1.055 trillion to so-call pay for this thing and not add one dime, as they say, to the deficit.

Mr. BOOZMAN. Right. Well first one, no $570 billion in Medicare cuts, which again is such a concern to seniors and why they are very much, I think, as a group, opposed to this bill, at least in the Third District of Arkansas. No 700 billion in taxes on employers and citizens. Again, small business is very, very concerned about the impact that this is going to have on their businesses.

No taxing States. The Medicaid increases, Dr. BROUN alluded to that earlier. That's going to be a huge impact on our States, and the States have to either raise taxes or cut services in order to provide that service. Again, that's a real problem.

Mr. GINGREY of Georgia. Dr. BOOZMAN, I don't think there is anything about raising Medicare coverage to 150 percent and putting this burden on the back of States in the Republican bill, is there?

Mr. BOOZMAN. No, not at all. In fact, I think an unintended consequence that we might see that people need to look at is many of our State county employees, city employees, our teachers, I don't think that they will meet the mandate that is pushed forward in the Pelosi plan. I think that will up their costs greatly at the State level. Again, that's going to have to be taken through increased property taxes and things like that to pay that bill. So many unintended consequences.

Mr. GINGREY of Georgia. Dr. BOOZMAN, I did want to go back to my first bullet point. Again, my colleagues, I refer you to this slide that's on the easel, ''no $570 billion in Medicare cuts.''

If the camera could focus on Dr. BROUN for a second, because that bill, that bill, H.R. 3962, is right in front of him. I am glad he is not trying to hold it, because we would be working on his back tomorrow; he would probably be in a back brace.

But in that bill, that $1.055 trillion pay-for includes this $570 billion, $570 billion cuts in Medicare.

Dr. BOOZMAN, would you elaborate on some of those cuts and why that should be of some concern to our seniors, because the folks on the other side of the aisle, Dr. BOOZMAN, Dr. BROUN, Mr. Speaker, my colleagues, just an hour ago said they don't need to worry about that; they are not going to hurt them. They are going to be okay. Let's talk about that a little bit.

Mr. BROUN of Georgia. They lie. They lie.

Mr. BOOZMAN. Well, I will just say this——

Mr. GINGREY of Georgia. Well, you know like some others on this side of the body Dr. BROUN just spoke out of turn, but we will forgive him for that.

I will yield now officially to the gentleman from Arkansas.

Mr. BOOZMAN. Well, we have a situation where Medicare gets in big trouble and goes broke in 2017 without aid. I have many people call me, I know that you guys do too, that have moved to town, you know, that maybe their mom has moved in or something, they can't find a Medicare provider now because physicians, because we are not paying them what it takes to see some of these patients.

They are starting to either not accept new Medicare patients, or they are limiting the Medicare patients that they already see. Again, we are already seeing a form of rationing.

So to make 570 billion in cuts, with that going on, its just makes no sense at all. If anything, we need to be shoring up Medicare.

The other thing, too, is that they add significant increased population, increased patients to the thing. We already have 10 percent-plus. I think everyone agrees it's at least 10 percent in fraud and abuse.

Why increase the system? Why not take care of the problems that we have got now, shore it up so we don't have problems in 2017 before we just throw more money into it and just create even more problems?

Mr. GINGREY of Georgia. Dr. BOOZMAN, reclaiming my time, I am so glad you elaborate on that $570 billion Medicare cut, because that's 12 percent a year over the next 10 years. We are not spending $570 billion today on Medicare; I can assure you we will in the very near future, but we are not today. So a $570 billion cut is more than what our yearly expenditure is today on Medicare. So over a 10-year period of time, about a 12 percent cut. The most egregious cut is coming from Medicare Advantage. Some 120-something billion dollars, a 17 percent cut per year, from that program.

Well, if that program was just some fluke that a few seniors signed up for and it wasn't that good of a program and we were wasting money on it, that would be one thing, Mr. Speaker. But 20 percent of our seniors are Medicare patients. They love it; they love it.

They get prescription drug coverage so they don't have to sign up for part D and pay that extra monthly premium. They get an annual physical. You don't get that in Medicare fee-for-service. They get screening, they get follow up, they have a nurse practitioner call them after their appointments to make sure they are taking their medication. They have a nurse call them when it's time for the next appointment, and they are staying healthy. The President and the majority party and all of us agree that preventive care is cheaper than treating the illness.

Yet you want to cut that program? That's bizarre to me.

□ 2200

I want to yield to my friend from Athens, Dr. BROUN. He may want to discuss the $700 billion in taxes in addition to the Medicare cuts and where that is going to come from and whose back is that on. Is this from the ultra-rich, Bill Gates and Warren Buffett and folks like that?

Mr. BROUN of Georgia. Yes, they are going to pay higher taxes. Everybody in this country is going to pay higher taxes, from the extremely rich to the poorest people; but most of those taxes will come on the backs of the small businesses. That is the reason that the President's own economic adviser has said that 5.5 million jobs in America are going to be destroyed. People are going to be put out of work because of that tax burden that is placed on small businesses.

This whole bill, this Pelosi health care takeover, is going to destroy

America. It is going to destroy everything we have in America.

Let me tell you a little story. Recently, I was talking to one of the Blue Dog Democrats, and I asked him to show me in this document where NANCY PELOSI has the constitutional authority to take over the health care system in America. He could not because this is unconstitutional.

Mr. GINGREY of Georgia. Mr. Speaker, we have just a few minutes left. This bill that we are talking about, H.R. 3962, this bill that we will be voting on on Saturday, this massive increase in bureaucracy, when it came through the Energy and Commerce Committee, I counted that it had 53 czars. I think we are up to 120 now. But the most egregious of all the czars that have been created through this bureaucratic bill is someone called the health choices administrator.

Now the health choices administrator is the person who is going to say what has to be in every health plan. That is why I was talking about driving up the prices for the youth of America, and why we are robbing from their present as well as their future. This health choices administrator is going to be more powerful than the Social Security administrator. They are going to decide not only are we going to force you to buy insurance or we are going to charge you a 2 percent fine, maybe put you in jail, or force your employers to provide insurance for your employees or fine you 8 percent, or maybe put you in jail, too. The person that is making those decisions on what type of plan is offered, and, Mr. Speaker, I am sure these low-premium, high-deductible health savings accounts are the types that young people love because it gives them protection against ''horrendoplasty,'' as we call it in medicine, a terrible car accident which causes them to lose a limb, and every bit of their financial wherewithal.

Here on this slide is a caricature of the health choices administrator. The gentleman from Georgia recognizes him because he ran Hazard County, Georgia. His name was Boss Hogg. Some may be too young to remember the ''Dukes of Hazard,'' but Boss Hogg, he made all of the decisions. He was the health choices administrator. And Boss Hogg says, kind of like Big Boss Hogg says, the President of the United States, you can have whatever you like as long as the boss approves it. As long as the boss approves it.

Let me just conclude by saying the people that came up here today had a prescription for America, and they told us, and I had one, too. I had it in my pocket, I just didn't have a chance to share it.

Here is my 10 prescriptions for a healthy America:

No government-run health care plan.

No cuts to senior care.

No new deficit spending. The President promised that.

No new taxes. That is in the Republican bill.

No rationing of care. The seniors don't want to get thrown under the bus, but they will under H.R. 3962.

No employer mandate. It is unconstitutional to force them. We want to encourage them. We want to lower the prices, as the Republican bill does, so they can get health care insurance, but in a voluntary way.

And we don't want to have taxpayer-funded coverage for illegal immigrants.

And we don't want to pay for abortions with taxpayer dollars.

Mr. Speaker, thank you for your patience. We will be back tomorrow night. God bless you and good evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PATRICK J. MURPHY of Pennsylvania (at the request of Mr. HOYER) for today on account of the birth of a child.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. TOWNS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BISHOP of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. SESTAK, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. CHU, for 5 minutes, today.

(The following Members (at the request of Mr. ROE of Tennessee) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, November 6.

Mr. REHBERG, for 5 minutes, November 6.

Mr. POE of Texas, for 5 minutes, November 7 and 12.

Mr. JONES, for 5 minutes, November 7 and 12.

Mr. ROE of Tennessee, for 5 minutes, today and November 6.

Mr. DUNCAN, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, November 7.

Mr. GOODLATTE, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. LINCOLN DIAZ-BALART of Florida, for 5 minutes, today.

Mr. GOHMERT, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3548. An act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on October 30, 2009, she presented to the President of the United States, for his approval, the following bills.

H.R. 3606. To amend the Truth in Lending Act to make a technical correction to an amendment made by the Credit CARD Act of 2009

H.R. 2996. Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes

ADJOURNMENT

Mr. BROUN of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Friday, November 6, 2009, at 9 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> ''I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.''

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 111th Congress, pursuant to the provisions of 2 U.S.C. 25:

JOHN GARAMENDI, California, Tenth.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4515. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. ACT 18-229, ''Anacostia Business Improvement District Amendment Act of 2009'', pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

4516. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 279, Port Arthur, TX [COTP Port Arthur-07-003] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4517. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 281, Port Arthur, TX [COTP Port Arthur-07-002] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4518. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Sabine River, Orange, TX [COTP Port Arthur-07-001] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4519. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Main Street Oceanside Fireworks Display; Oceanside Pier, Oceanside, California [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4520. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ocean Beach Pier, Ocean Beach, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4521. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4522. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4523. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4524. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Surf City, NC [CGD05-05-062—tfr] (RIN: 1625-AA00) Recevied October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4525. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 06-052] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4526. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Pungo Ferry Bridge, North Landing River, VA [CGD05-06-012] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4527. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego Bay, San Diego, CA [COTP San Diego 06-051] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4528. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Chesapeake Bay Bridge Swim Races, Chesapeake Bay, MD [CGD05-06-022] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4529. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Diego Bay, San Diego, CA [COTP San Diego 06-051] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4530. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, St. George Creek, Piney Point, Maryland [CGD05-06-095] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4531. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks, Lower Colorado River, Laughlin, NV [COTP San Diego 06-025] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4532. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Colorado River, Laughlin, NV [COTP San Diego 06-025] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4533. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; North San Diego Bay, San Diego, CA [COTP San Diego 06-022] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4534. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chester, Pennsylvania; Marcus Hook, Pennsylvania; and Essington, Pennsylvania [CGD05-06-099] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4535. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Crazy Horse Campground, Lake Havasu, Arizona [COTP San Diego 06-017] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4536. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Colorado River, Parker, AZ [COTP San Diego 06-011] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4537. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek and Severn River, Annapolis, MD [CGD05-06-102] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4538. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Live-Fire Gun Exercises; San Diego, off of Point Loma, CA [COTP San Diego 06-003] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4539. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chesapeake Bay, Chesapeake Channel, MD [CGD05-06-077] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4540. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Hopewell Christmas Parade Fireworks, Appomattox River, Hopewell, VA [CGD05-06-107] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4541. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for Marine Events; Pasquotank River, Atlantic Intra-Coastal Waterway, Elizabeth City, North Carolina [CGD05-06-073] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4542. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Potomac River, Alexandria Channel, DC [CGD05-06-111] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4543. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Harborfest 2006, Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA [CGD05-06-061] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4544. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Satellite Launch, NASA Wallops Flight Facility, Wallops Island, VA [CGD05-06-115] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4545. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Hampton River, Hampton, VA [CGD05-06-058] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4546. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Potomac River, Alexandria Channel, DC [CGD05-06-116] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4547. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, FL [COTP St. Petersburg 07-184] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4548. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 281, Port Arthur, TX [COTP Port Arthur-07-005] (RIN 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4549. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Moving Safety Zone; Gulf of Mexico; Sabine Pass, Texas; Port Arthur, Texas [COTP Port Arthur-07-006] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4550. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Intracoastal Waterway Mile Markers 284-285, Port Arthur, TX [COTP Port Arthur-07-007] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4551. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display, Chesapeake Bay, Tred Avon River, Oxford, MD [CGD05-06-056] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4552. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Sabine River, Orange, TX [COTP Port Arthur-07-008] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4553. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, Posit 29°46′20″N 093°11′38″W [COTP Port Arthur-07-009] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4554. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Back River, Hampton, VA [CGD05-06-050] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4555. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf of Mexico, Posit 29°5′54″N 093°11′36″W [COTP Port Arthur-07-010] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4556. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington Channel, Washington, DC [CGD-06-034] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4557. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Neches River, Beaumont Texas [COTP Port Arthur-07-011] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4558. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Great Egg Harbor, Somers Point, NJ [CGD05-06-032] (RIN: 1625-AA08) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4559. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-259] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4560. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway (GICW), Hackberry, LA [COTP Port Arthur-07-012] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4561. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-248] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4562. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine River, Orange, TX [COTP Port Arthur-07-013] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4563. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-017] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4564. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-078] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4565. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-247] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4566. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-159] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4567. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Savannah River, Hutchinson Island, Savannah, GA [COTP Savannah-07-166] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4568. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-243] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4569. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-168] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4570. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-239] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4571. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-182] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4572. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Container Berth 1, Savannah River, Savannah, GA [COTP Savannah-07-188] (RIN: 1625-AA00) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4573. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-189] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4574. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-07-211] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4575. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah GA [COTP Savannah-07-236] (RIN: 1625-AA87) received October 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TOWNS: Committee on Oversight and Government Reform. H.R. 1849. A bill to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and for other purposes; with an amendment (Rept. 111–329, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Natural Resources discharged from further consideration.

H.R. 1849 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. HASTINGS of Washington (for himself and Mr. MCCLINTOCK):

H.R. 4027. A bill to amend the Hoover Power Plant Act of 1984 to ensure that project beneficiaries are solely responsible for repaying the costs of Western Area Power Administration power transmission and delivery projects, and for other purposes; to the Committee on Natural Resources.

By Mr. WU (for himself, Mr. ALTMIRE, Mr. BLUMENAUER, Ms. BORDALLO, Mr. CHILDERS, Mr. COURTNEY, Mr. DEFAZIO, Mr. GORDON of Tennessee, Mr. HILL, Mr. HINCHEY, Mr. HINOJOSA, Mr. KAGEN, Mr. MINNICK, Mr. PETERSON, Mr. PIERLUISI, Mr. ROSS, Mr. SALAZAR, Mr. SCHRADER, Mr. WALZ, and Mr. WILSON of Ohio):

H.R. 4028. A bill to amend title 38, United States Code, to improve services for veterans residing in rural areas; to the Committee on Veterans' Affairs.

By Mr. DICKS (for himself, Mr. BAIRD, Mr. SMITH of Washington, Mr. LARSEN of Washington, Mr. MCDERMOTT, Mr. INSLEE, and Mr. REICHERT):

H.R. 4029. A bill to amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect the water quality of Puget Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DENT:

H.R. 4030. A bill to suspend temporarily the duty on Triethylenediamine; to the Committee on Ways and Means.

By Ms. BALDWIN:

H.R. 4031. A bill to amend the Energy Policy and Conservation Act to establish a motor efficiency rebate program; to the Committee on Energy and Commerce.

By Mr. BRADY of Texas:

H.R. 4032. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit and to eliminate the first-time homebuyer requirement and increase the adjusted gross income limitations with respect to such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 4033. A bill to require the Election Assistance Commission to establish an American Democracy Index to measure and improve the quality of voter access to polls and voter services in Federal elections; to the Committee on House Administration.

By Mr. KISSELL (for himself and Mr. ETHERIDGE):

H.R. 4034. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to lease portions of the Airborne and Special Operations Museum facility to the Airborne and Special Operations Museum Foundation to support operation of the Museum; to the Committee on Armed Services.

By Mr. MARCHANT:

H.R. 4035. A bill to amend the Internal Revenue Code of 1986 to allow the estate of a decedent to use the capital loss carryover of the decedent as a deduction against estate tax; to the Committee on Ways and Means.

By Mr. PAYNE:

H.R. 4036. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Natural Resources.

By Mr. FORTENBERRY:

H. Con. Res. 209. Concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes; to the Committee on Foreign Affairs.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. THOMPSON of Mississippi, Mr. OBERSTAR, Mr. KING of New York, Mr. MICA, Mr. CUMMINGS, Mr. LOBIONDO, Mr. SOUDER, Ms. HARMAN, Mr. MCCAUL, Mr. CUELLAR, Mr. ROGERS of Alabama, Mr. CARNEY, Mr. BILIRAKIS, Ms. ZOE LOFGREN of California, Mr. DANIEL E. LUNGREN of California, Mr. CLEAVER, Mr. DENT, Ms. NORTON, Mrs. MILLER of Michigan, Ms. RICHARDSON, Mr. CAO, Mr. AL GREEN of Texas, Mr. OLSON, Mr. LUJÁN, Mr. BROUN of Georgia, Mrs. KIRKPATRICK of Arizona, Mr. MASSA, and Mr. HIMES):

H. Res. 891. A resolution expressing the gratitude of the House of Representatives for the service to our Nation of the Coast Guard and Marine Corps aircraft pilots and crewmembers lost off the coast of California on October 29, 2009, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BERMAN (for himself, Mr. WEXLER, Mr. DELAHUNT, Ms. BERKLEY, Mr. COSTA, Ms. KAPTUR, and Mr. LIPINSKI):

H. Res. 892. A resolution recognizing the 20th anniversary of the remarkable events leading to the end of the Cold War and the creation of a Europe, whole, free, and at peace; to the Committee on Foreign Affairs.

By Mr. SERRANO (for himself, Mr. ACKERMAN, Mr. ARCURI, Mr. BACA, Mr. BISHOP of New York, Ms. BORDALLO, Ms. CLARKE, Mr. CROWLEY, Ms. DELAURO, Mr. DICKS, Mr. ENGEL, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. KING of New York, Mr. ISRAEL, Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCMAHON, Mr. MEEKS of New York, Mr. MURPHY of New York, Mr. NADLER of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBEY, Mr. ORTIZ, Mr. PASCRELL, Mr. PASTOR of Arizona, Mr. PIERLUISI, Mr. REYES, Mr. RODRIGUEZ, Mr. ROTHMAN of New Jersey, Mr. SALAZAR, Mr. SIRES, Mr. THOMPSON of California, Mr. TONKO, Ms. VELÁZQUEZ, Mr. ALEXANDER, Mr. PAYNE, Mr. WAMP, Mr. REHBERG, Mr. HOLT, Mr. DAVIS of Kentucky, Mr. HONDA, Mr. KUCINICH, Ms. BERKLEY, Mr. WEXLER, Mr. BISHOP of Georgia, Mr. WATT, Mr. RANGEL, Ms. WASSERMAN SCHULTZ, Mr. MASSA, Mr. GRAYSON, Ms. HIRONO, Mr. MAFFEI, Mr. LINCOLN DIAZ-BALART of Florida, Mr. SABLAN, and Mr. UPTON):

H. Res. 893. A resolution congratulating the 2009 Major League Baseball World Series Champions, the New York Yankees; to the Committee on Oversight and Government Reform.

By Mr. CONYERS (for himself, Mr. GRIJALVA, Mr. MCGOVERN, and Mr. ABERCROMBIE):

H. Res. 894. A resolution honoring the 50th anniversary of the recording of the album ''Kind of Blue'' and reaffirming jazz as a national treasure; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 182: Ms. CHU.
H.R. 197: Mr. CAMPBELL.
H.R. 198: Mr. WITTMAN.
H.R. 208: Mr. SESSIONS.
H.R. 272: Ms. FOXX and Mr. HERGER.
H.R. 305: Ms. DELAURO.
H.R. 417: Mr. FALEOMAVAEGA, Mr. FATTAH, Ms. SCHAKOWSKY, Ms. MOORE of Wisconsin, Ms. WOOLSEY, Mr. OBERSTAR, Mr. HONDA, and Mr. SIRES.
H.R. 502: Mr. KLINE of Minnesota.
H.R. 510: Mr. MELANCON.
H.R. 521: Mr. MANZULLO.
H.R. 564: Mr. PASCRELL, Ms. HIRONO, and Mr. NADLER of New York.
H.R. 571: Mr. WATT.
H.R. 644: Mr. PERRIELLO.
H.R. 678: Mr. ROTHMAN of New Jersey, Mr. YARMUTH, and Mr. CLAY.
H.R. 734: Mr. ALTMIRE, Mr. GERLACH, and Ms. MARKEY of Colorado.
H.R. 739: Ms. LEE of California.
H.R. 901: Ms. SUTTON and Ms. KILPATRICK of Michigan.
H.R. 930: Mr. TOWNS.
H.R. 1020: Mr. GRAYSON, Mr. CLAY, Mr. WEINER, and Mr. RUSH.
H.R. 1067: Mr. ROE of Tennessee.
H.R. 1079: Mr. BARROW.
H.R. 1086: Mrs. BONO MACK.
H.R. 1126: Mr. WELCH.
H.R. 1157: Mr. COHEN.
H.R. 1159: Ms. BERKLEY.
H.R. 1175: Mr. HOLT, Mr. WU, and Ms. KILROY.
H.R. 1189: Mrs. NAPOLITANO.
H.R. 1207: Mr. WEINER and Mr. KISSELL.
H.R. 1220: Mr. SHUSTER.
H.R. 1326: Ms. LEE of California.
H.R. 1347: Mr. KENNEDY.
H.R. 1396: Mr. DOGGETT.
H.R. 1475: Mr. MEEKS of New York.
H.R. 1547: Mr. BLUNT.
H.R. 1623: Ms. BERKLEY.
H.R. 1806: Mr. DAVIS of Alabama and Ms. MATSUI.
H.R. 1818: Mr. COHEN.
H.R. 1826: Mr. KISSELL and Ms. LINDA T. SÁNCHEZ of California.
H.R. 1831: Mr. CAMP.
H.R. 1855: Mr. COURTNEY.
H.R. 1925: Mr. BARROW and Ms. ROYBAL-ALLARD.
H.R. 2251: Mr. ROTHMAN of New Jersey and Mr. YOUNG of Alaska.
H.R. 2254: Mr. HEINRICH.
H.R. 2279: Mr. CONNOLLY of Virginia and Ms. LORETTA SANCHEZ of California.
H.R. 2296: Mr. CAMPBELL.
H.R. 2324: Mr. MEEKS of New York and Mr. RANGEL.
H.R. 2365: Ms. WASSERMAN SCHULTZ.
H.R. 2452: Ms. LORETTA SANCHEZ of California, Mr. SESTAK, Ms. HARMAN, Mr. TOWNS, Mr. FARR, Mrs. CAPPS, Ms. MATSUI, and Ms. WATSON.
H.R. 2478: Mr. GEORGE MILLER of California.
H.R. 2560: Ms. GIFFORDS.
H.R. 2573: Mr. QUIGLEY.
H.R. 2579: Mr. DOGGETT.
H.R. 2626: Mr. GRAYSON.

H.R. 2648: Mr. SABLAN.
H.R. 2746: Mr. CLAY, Mr. HONDA, and Mr. GRIJALVA.
H.R. 2866: Mr. SPRATT and Mr. YOUNG of Florida.
H.R. 2894: Mr. KANJORSKI and Mr. SHULER.
H.R. 2932: Ms. DELAURO and Ms. MCCOLLUM.
H.R. 3002: Mr. GOODLATTE and Mr. PITTS.
H.R. 3012: Mr. DONNELLY of Indiana.
H.R. 3048: Mr. GRAYSON.
H.R. 3077: Mr. PUTNAM, Mrs. NAPOLITANO, and Ms. JACKSON-LEE of Texas.
H.R. 3191: Mr. SESTAK.
H.R. 3227: Mr. BRALEY of Iowa.
H.R. 3238: Mr. WELCH.
H.R. 3245: Ms. KILPATRICK of Michigan.
H.R. 3328: Mr. BISHOP of Georgia, Mr. CLAY, Ms. MOORE of Wisconsin, Ms. CORRINE BROWN of Florida, Ms. NORTON, and Ms. RICHARDSON.
H.R. 3359: Ms. MCCOLLUM, Mr. THOMPSON of California, Ms. MOORE of Wisconsin, Mr. ELLISON, Ms. CHU, Mr. HARE, Mr. FARR, Ms. HIRONO, Mr. HINCHEY, Ms. BERKLEY, Mr. DELAHUNT, Mr. LYNCH, Mr. NEAL of Massachusetts, Mr. COSTELLO, Mr. PIERLUISI, Mr. LEVIN, Mr. CONYERS, Ms. SCHAKOWSKY, Ms. SHEA-PORTER, Ms. WATERS, Mr. RANGEL, Mr. TIERNEY, Mr. DAVIS of Illinois, Mr. THOMPSON of Mississippi, Ms. CASTOR of Florida, and Mr. MCGOVERN.
H.R. 3381: Mr. NEAL of Massachusetts.
H.R. 3421: Ms. NORTON, Mr. FARR, Mr. NADLER of New York, and Mr. CLAY.
H.R. 3439: Ms. ESHOO.
H.R. 3457: Mr. NADLER of New York, Mr. HONDA, and Ms. SCHAKOWSKY.
H.R. 3458: Ms. MATSUI, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Mrs. CAPPS, Mr. FARR, Ms. ZOE LOFGREN of California, Ms. WATSON, and Ms. SPEIER.
H.R. 3464: Mr. PENCE.
H.R. 3524: Mr. HONDA, Mr. BARROW, and Ms. SHEA-PORTER.
H.R. 3564: Mr. MCGOVERN.
H.R. 3569: Mr. BARRETT of South Carolina.
H.R. 3612: Mr. FORBES and Mr. HALL of Texas.
H.R. 3650: Mr. PUTNAM and Mr. MARKEY of Massachusetts.
H.R. 3656: Mr. MORAN of Virginia.
H.R. 3660: Mr. INGLIS.
H.R. 3705: Ms. KILPATRICK of Michigan, Mr. AL GREEN of Texas, Ms. KILROY, and Mr. BLUMENAUER.
H.R. 3724: Ms. HIRONO.
H.R. 3731: Mr. BLUMENAUER.
H.R. 3758: Mr. GORDON of Tennessee.
H.R. 3779: Mrs. BIGGERT.
H.R. 3822: Mr. WITTMAN and Mrs. BONO MACK.
H.R. 3823: Mrs. BONO MACK.
H.R. 3824: Mr. WITTMAN and Mrs. BONO MACK.
H.R. 3852: Mr. CASTLE.
H.R. 3885: Mr. KILDEE.
H.R. 3904: Ms. JACKSON-LEE of Texas, Ms. KILPATRICK of Michigan, Mr. CLEAVER, Mr. AL GREEN of Texas, Ms. RICHARDSON, Mr. HASTINGS of Florida, Mr. RODRIGUEZ, Mr. REYES, Mr. BUTTERFIELD, Mr. JACKSON of Illinois, Mr. MOORE of Kansas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAYNE, Mr. THOMPSON of Mississippi, Mr. HARE, Mr. LEVIN, Mr. COHEN, Ms. MATSUI, Mr. CONYERS, and Mr. RYAN of Ohio.
H.R. 3907: Mr. FILNER, Mr. TIERNEY, Mr. CUMMINGS, Ms. SCHAKOWSKY, Ms. BORDALLO, Mr. WEXLER, Mr. KILDEE, Mr. GERLACH, Mr. BLUMENAUER, Mr. HARE, Mr. BERMAN, Mr. ANDREWS, Mr. GEORGE MILLER of California, Mr. MITCHELL, Mr. RAHALL, Mr. MCGOVERN, Ms. WOOLSEY, Mr. PASTOR of Arizona, Mr. FRANK of Massachusetts, Mr. MCCAUL, Ms. MATSUI, Mr. MURTHA, Mr. MCNERNEY, Ms. LEE of California, Mr. CLEAVER, Mr. COURTNEY, Mr. BISHOP of New York, Mr. HODES, and Mr. WELCH.
H.R. 3929: Mr. ALEXANDER.
H.R. 3942: Mr. GRIJALVA.
H.R. 3943: Mr. FILNER, Mr. WILSON of South Carolina, and Mr. WU.
H.R. 3957: Mr. HONDA, Mr. PAYNE, Mr. POLIS, Ms. MCCOLLUM, and Mr. MCGOVERN.
H.J. Res. 50: Mr. ADERHOLT.
H. Con. Res. 175: Mr. SARBANES.
H. Con. Res. 207: Mr. POSEY and Mr. LINDER.
H. Res. 200: Mr. ROHRABACHER.
H. Res. 252: Mr. LATOURETTE.
H. Res. 486: Mr. LEVIN.
H. Res. 699: Mr. MCCARTHY of California, Mr. DANIEL E. LUNGREN of California, Mr. HARPER, Mr. CLAY, Mr. MCHENRY, Mr. DUNCAN, Mr. TAYLOR, Mr. REHBERG, Mr. GUTHRIE, Mr. TERRY, Mr. BISHOP of Utah, Mr. MCCOTTER, Mr. MORAN of Kansas, Mr. HOEKSTRA, Mr. SHUSTER, Mr. PAULSEN, Mr. AKIN, Mr. HUNTER, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Ms. FALLIN, Mr. SKELTON, Mr. EHLERS, Mr. SULLIVAN, Mr. LATHAM, Mr. COFFMAN of Colorado, Mr. BARTLETT, Mr. TIBERI, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. TURNER, Mrs. MCMORRIS RODGERS, Mr. FLEMING, and Mr. FLAKE.
H. Res. 700: Mr. MARSHALL.
H. Res. 704: Mr. RODRIGUEZ, Mr. TIAHRT, Ms. SCHAKOWSKY, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. SAM JOHNSON of Texas, Mrs. MYRICK, Mr. BONNER, and Ms. CHU.
H. Res. 727: Ms. LEE of California.
H. Res. 833: Mr. WAMP and Mr. MCMAHON.
H. Res. 847: Mr. SCALISE.
H. Res. 857: Mr. ROSKAM and Mr. CLEAVER.
H. Res. 861: Mr. MORAN of Virginia, Ms. ROS-LEHTINEN, Mr. KLINE of Minnesota, Mr. ALEXANDER, and Mr. PLATTS.
H. Res. 870: Mr. CASTLE, Mr. BARRETT of South Carolina, Mr. MANZULLO, Mr. BURGESS, Mr. SCHOCK, Mr. THORNBERRY, Mr. THOMPSON of Pennsylvania, Mr. LOBIONDO, Mrs. MCMORRIS RODGERS, Mr. GERLACH, Mr. GUTHRIE, Mr. CALVERT, Mr. CAMP, and Mr. LANCE.
H. Res. 877: Mr. FATTAH, Mr. EDWARDS of Texas, Mr. LIPINSKI, Mr. YOUNG of Alaska, Mr. WEINER, Mr. KENNEDY, Mr. FOSTER, Mr. OLVER, Mr. COURTNEY, and Ms. ROS-LEHTINEN.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative DINGELL, or a designee, to H.R. 3962, the Affordable Health Care for America Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

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PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

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

Let us pray.

God of wonder beyond all majesty, You are worthy of our praise. Thank You for the marvel of creation that surrounds us and for Your creative presence that empowers us. Let Your presence unsettle and inspire us, as we seek to live lives of praise and thanksgiving.

Lord, unsettle us when our dreams come true because they are too small, as you inspire us to dare more boldly and attempt to accomplish great things in Your name.

Today, show Your glory, Your justice, and Your peace through the work of our lawmakers. Inspire their hearts to thirst for Your wisdom, preparing them to navigate through life's inevitable challenges and setbacks. Restore in them the wholeness that comes from seeking Your glory in everything they think, say, and do.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR 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 bill clerk read the following letter:

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

To the Senate:

Under the provisions of rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business for 2 hours. During that period of time, Senators will be allowed to speak therein for up to 10 minutes each. The majority will control the first hour and the Republicans will control the second hour.

Following morning business, there will be 40 minutes of debate with respect to H.R. 2847, the Commerce, Justice, Science appropriations bill. Upon the use or yielding back of that time, the Senate will proceed to a cloture vote on the committee-reported substitute amendment to the bill.

A number of amendments are pending to the bill. If cloture is invoked, we would dispose of any pending germane amendments.

We also expect to reach an agreement today to consider the nomination of Andre Davis to be a circuit judge for the Fourth Circuit. That nomination, we are told, will require a rollcall vote.

We will begin consideration of the Military Construction Appropriations matter, which is important, upon completion of the Commerce, Justice, Science appropriations bill.

Senators should expect the first vote at around 12:15 or 12:30 today. That will be a vote on cloture on the CJS appropriations bill, and additional votes are expected throughout the day.

SENATE BIPARTISANSHIP

Mr. REID. Mr. President, one thing this body needs is more bipartisanship. The Presiding Officer has done a wonderful job in reaching out during his tenure as a Senator to other Senators, Democrats and Republicans. Legislation is the art of compromise, consensus building. The Presiding Officer certainly has filled that role very well. I want to spend a few minutes talking about this.

We have had some dramatic developments take place in the last several weeks. That is as a result of two men who are working very hard to come up with something that would be landmark legislation. We are working so hard on health care reform. It has been extremely difficult to arrive at the point where we are. But we are further now than we have ever been since 1948 in coming up with health care legislation that will make health care more available for all Americans.

Switching from health care to energy and the problems we have with the warming of the Earth, I have known JOHN KERRY for a long time. We were both Lieutenant Governors. We came to the Congress the same year. As a relatively new Senator, I was on a select committee he cochaired, dealing with prisoners of war and those missing in action. I noticed at that time what a fine leader and fine legislator JOHN KERRY was. As a result of his good work with others on that committee, including Bob Smith of New Hampshire, we came up with an outstanding work product in that committee. JOHN KERRY, as we all know, became the Democratic nominee for President of the United States and came very close to being elected President. But he put that aside and went on

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

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to become the fine Senator he is. He is filling that role now as chairman of the Foreign Relations Committee. He has worked so hard on doing something on a bipartisan basis to move forward on this most important legislation. With what he has done in reaching out to Republicans—I say that in the plural—we have had one brave Republican step forward to work with him, LINDSEY GRAHAM. I first saw LINDSEY GRAHAM in action when we had the impeachment trial of President Clinton. He was one of the impeachment officers from the House. He was very good. I learned at that time what an outstanding trial lawyer he had been in South Carolina. I recognized that from the presentation he made right in the well of this Senate.

As we learned with the work we completed dealing with unemployment insurance, net operating loss, first-time home buyers, it only takes one person to break from the pack, for lack of a better description, to develop bipartisanship. That was done along with Senator ISAKSON from Georgia. On this most important issue dealing with climate change, it is LINDSEY GRAHAM from South Carolina. He is bravely stepping forward.

What Senators KERRY and GRAHAM have done is quite remarkable. They have reached out to the coal interests. We have a number of coal Senators who have said: No way will we ever agree to anything, and they are working toward having them as part of the agreement. Nuclear power, which when this all started, I think it is fair to say, people on this side of the aisle wanted no part of that—most people on this side. Now that will be part of the mix. The production of oil in our country—people say, does that mean you have given up on all these great things we believe in? Legislation is the art of compromise. We need to have legislation that is bipartisan. I believe what LINDSEY GRAHAM and JOHN KERRY have done will allow us to move forward on this legislation. It is important that we do things on a bipartisan basis.

I compliment and applaud and recognize the good work these two brave men are doing in setting an example for the rest of us in moving forward on legislation that will be dramatic not only for our country but for the world.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, the last 2 years haven't been easy ones for the American people. Millions have lost jobs and homes, and many have had the bitter experience of watching years of savings disappear. Unemployment stands at a 25-year high, and in many States it is worse. Just to take one example, in Kentucky unemployment rose in all 120 counties from June 2008 to June 2009. A lot of Americans are hurting. A lot of them have been struggling for a long time. And despite the occasional piece of good news, the situation doesn't seem to be getting a whole lot better for most people.

This is the situation now, and this was the situation when the White House announced its plan to undertake health care reform. Throughout this debate, the need to do something about the economy has never been far from our minds.

Indeed, from the very outset of this debate, the administration has rested its case for reform on the need to do something about the economy. The economy was in bad shape, the argument went. And reforming health care would make it better.

All of us agree that health care costs are unsustainably high, and alleviating the burden of these costs on American families and businesses is something we should work together to do. But somewhere along the way, the administration got off track. The original purpose of reform was obscured. And now we are hearing from one independent analysis after another that a bill which was meant to alleviate economic burdens will actually make these burdens worse. And the most significant finding is this: A reform that was meant to lower costs will actually drive them up.

Americans are scratching their heads about all this, and rightly so. Business owners can't believe a reform that was meant to help them survive will end up costing them more in higher taxes. Seniors can't believe a bill that was meant to improve their care will lead to nearly half a trillion dollars in cuts to their Medicare. And families can't believe that they are going to have to pay higher health care premiums and taxes at a time when so many of them are already struggling to make ends meet.

Higher taxes, higher premiums, cuts to Medicare. These are three of the major blows this legislation would deal to the American people. And any one of them would be bad enough on its own. But let's just look at one of the unexpected consequences of the Democrat health care plan for a moment—let's look at the tax hikes.

The Senate bill we've seen targets individuals and businesses with a raft of new taxes, fees, and penalties. It imposes a 40-percent tax on high value insurance plans for individuals and families. It imposes billions in fees on health plans that will inevitably be passed along to consumers. It imposes fees on the costs of medical devices and life-saving drugs, fees that would be paid by consumers.

Millions of taxpayers managing chronic conditions and facing extraordinary medical expenses will be faced with even higher out of pocket costs because the bill makes it more difficult to deduct these expenses. And small businesses with as few as 50 employees would be required to buy insurance for all workers whether they could afford it or not, or pay a substantial tax for each of them.

Taken together, the health care plan we have seen would impose roughly half a trillion dollars in new taxes, fees, and penalties at a time when Americans are already struggling to dig themselves out of a recession. What's worse, an independent analysis by the Joint Committee on Taxation suggests that nearly 80 percent of the burden would fall on middle-class Americans.

So a reform that was meant to make life easier is now expected to make life harder. If you have insurance, you get taxed. If you don't have insurance, you get taxed. If you're a struggling business owner who can't afford insurance for your employees, you get taxed. If you use medical devices, you get taxed.

This is not the reform Americans were asking for, Mr. President. And that's precisely why more Americans now oppose this health care plan than support it.

The administration didn't listen to the American people when it put this plan together, but it can listen now, and the message it is going to hear is this: Put away the plan to raise premiums, raise taxes, and cut Medicare. Get back to the drawing board and come up with a commonsense, step-by-step set of reforms. That is what people want, and that is what they should get.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from North Carolina.

HEALTH CARE REFORM

Mrs. HAGAN. Mr. President, the United States spends $2.3 trillion each year on health care—the most per capita of all industrialized nations. Yet we still have higher infant mortality and lower life expectancy than many of the other industrialized nations. Moreover, medical errors kill 100,000 patients per year and cost the system tens of billions of dollars, and $700 billion is spent each year on treatments that do not lead to improved patient health.

Today, my freshman Senate colleagues and I are going to speak about

the need to reform our health care delivery systems. You will hear from all of us about innovative initiatives that are successfully bringing down the cost of health care and at the same time improving the quality of care.

Mr. President, I would like to yield 5 minutes to my colleague from Colorado, Senator MARK UDALL, to discuss accountable care organizations.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I thank my colleague from North Carolina, Senator HAGAN, for convening this important session this morning where we will talk about the urgent need to reform health care in our country.

The unsustainable growth in health care costs and lack of stable, affordable coverage for millions of Americans continue to jeopardize not only our Nation's fiscal well-being but also the physical well-being of our families and neighbors. One of the key ways we can help put our health care system and our economy on the right track is by encouraging value in the delivery of health care.

I have cited these numbers before—I know many of us have—but I want to emphasize them again. As a nation, we spend over $2 trillion per year on health care—that is nearly one-fifth of our economy. Yet between 30 and 50 percent of these dollars are not contributing to better patient health. That is not a good deal for the American people.

Health reform is designed to address this staggering amount of waste in a number of ways. One way is to encourage providers to focus on the quality of care they provide and not just on the volume. And we can start with Medicare.

I think the American people would agree that taxpayer dollars are better spent rewarding doctors for keeping patients healthy and not for performing more tests or more procedures. Health reform legislation can move us in this direction through the development of what are known as accountable care organizations, or ACOs. These organizations would encourage groups of health care professionals to team up and provide more coordinated, streamlined care to Medicare patients. The idea is to have these ACOs take responsibility for improving patient care while lowering cost and then sharing the savings that accrue. Research indicates that this idea of shared savings would help eliminate waste and spur changes in our health care delivery system to emphasize patient outcomes and value.

The idea for ACOs no doubt came from the great work being done by a patchwork of physician groups. Groups such as the Physician Health Partners, or PHP, in my home State of Colorado, and others across the country focused on care coordination and quality.

For example, PHP has seen great success in improving care for kids suffering from asthma—the No. 1 cause of child hospitalization and school absence. They developed treatment guidelines and promoted collaboration among doctors, the Children's Hospital in Denver, and the Colorado Allergy and Asthma Centers. As a result, they have reduced emergency room visits and improved families' ability to manage asthma on their own.

PHP also has the Practice Health Project. This comprehensive effort brings doctors together to share best practices and encourage the adoption of commonsense guidelines to improve quality and efficiency. The goal of this team effort is to raise the standard and value of care and allow these physician groups to act as a model for Denver's physician community as a whole.

I would also like to tout the PHP's Transitions of Care Program in collaboration with Denver's St. Anthony Hospital and other local care providers. The program dispatches nurse coaches to help Medicare patients make the transition from the hospital to their homes. The period immediately following a hospital stay is a very confusing time, particularly for our seniors. Having someone help with this transition is crucial. PHP has had tremendous early success with this program, showing the potential to reduce costly hospital readmissions by 40 to 50 percent. At the same time, this program keeps patients healthy and it saves money.

The successes of groups such as Physician Health Partners demonstrate that we already have the will and the know-how to change our system for the better. But under our existing system there is no incentive for programs like PHP to even exist. Under the status quo, a hospital stands to lose money if it decreases its admission rates. Primary care doctors would be at a financial disadvantage if they spent time in the development and implementation of effective treatment plans for their asthmatic patients.

This is why health reform includes commonsense proposals such as encouraging groups such as Physician Health Partners to form accountable care organizations and paying them to coordinate care for Medicare patients. Promoting ACOs and other creative pro-consumer ideas will increase quality for patients and value for the taxpayer.

Only by reshaping the way we do business in our health care system can we truly change health care delivery in our country. I look forward to working with my colleagues here today and other Senators in the coming weeks to promote the many ways we can accomplish that goal.

I thank Senator HAGAN, and I yield the floor.

Mrs. HAGAN. I thank Senator UDALL. Accountable care organizations are extremely important in health care reform.

Mr. President, I would like to yield 5 minutes to my colleague from Delaware, Senator TED KAUFMAN, to discuss Delaware's health information network.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. KAUFMAN. First, Mr. President, I want to thank Senator HAGAN not just for putting this on but for her leadership all along on health care reform, and I look forward to working with her because of her great leadership. I appreciate the opportunity to join my colleagues on the floor to highlight health care innovations in our home States that can serve as models for national reform.

Delaware is a national leader in health care IT—information technology—and I want to take a couple of minutes this morning to talk about a truly innovative approach to health care record keeping in my State. It is called the Delaware Health Information Network.

The Delaware Health Information Network, which we call DHIN, was authorized 12 years ago and went live in 2007, becoming the first operational statewide health information exchange. A public-private partnership of physicians, hospitals, laboratories, community organizations, and patients, the DHIN provides for the fast, secure, and reliable exchange of health information among the State's many medical providers. As a result of its early success, the DHIN was one of the nine initial health information exchanges selected to participate in the U.S. Department of Health and Human Services' national health information network trial implementations. Among those nine, it was the first State to successfully establish a connection with the trial.

Right now, more than 50 percent of all providers in the State—nearly 1,300—participate in the DHIN. More than 85 percent of all lab tests are entered into the network, and 81 percent of all hospitalizations are captured by the exchange. As of June of this year, the DHIN held over 648,000 patient records, and it conducts 40 million transactions a year.

Participating providers have a choice of three options to receive lab, pathology, and radiology reports, as well as admission face sheets: they can have them sent directly into a secure in-box, similar to an e-mail account, they can have them faxed to their office, or they can get the results from an electronic medical records interface on the Web. All three provide information in a timely manner that protects the privacy of the patient.

Our State of Delaware receives four very tangible benefits from DHIN, and these are listed on this chart.

First, the DHIN provides a communication system between providers and organizations—something that did not exist previously. Individual physician offices can now easily discover if hospitals, such as Christiana, Bayhealth, and Beebe Medical Center, have admitted their patients. Doctors and hospitals can also get lab results back

from the State's clinical laboratories in a timely manner.

Second, the information exchanged electronically through DHIN helps improve the quality of care being delivered in the State. When providers have access to better, faster information at the time and place of care, either in a doctor's office or an emergency room, those providers can make better decisions and reduce the chance of medical errors. Knowing what medications a patient is on or what coexisting conditions a patient may have can give the provider more complete information when delivering care, reducing the chance of an adverse outcome.

Third, the DHIN can help reduce the cost of care within the health care system. That is what we are all looking for out of health care reform—cost reduction. With nearly 650,000 patient records in the system, providers can know what tests and procedures have already been ordered, cutting out inadvertent test duplication. In addition, the DHIN can help improve disease management by allowing multiple providers treating a person to communicate and better align the treatments and prescriptions for a particular patient.

Finally, No. 4, the DHIN can enhance privacy within the medical health care system. The DHIN is a secure system that can only be accessed by participating providers and organizations. It contains access controls, regulating who can use the network, and it contains audit requirements to ensure there are no breaches in patient privacy.

While the DHIN is still growing, it has already helped the patient care delivery system in Delaware. As it moves to include all providers in the State and works with other States' information exchanges to share ideas and successes, the DHIN will help lead our country to a widespread adoption of health information technology.

The stimulus act contained $19 billion to promote the adoption of health IT nationwide, and the health reform effort promises to build on this momentum with even more resources. I believe it is essential that health reform boost the integration of information technology such as that provided by the DHIN throughout the health care system.

As I have said many times, it is time to gather our collective will and do the right thing during this historic opportunity by passing health care reform. We must include incentives to expand the utilization of health information technology. We can do no less. The American people deserve no less.

Mrs. HAGAN. I thank Senator KAUFMAN. A health information network is critical to improving patient care and reducing health care costs.

Now I would like to yield 5 minutes to my colleague from Alaska, Senator MARK BEGICH, to discuss customer-driven care.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I thank Senator HAGAN for allowing me time this morning. I am pleased to join my freshman colleagues to once again state our case for health insurance reform in this country. It is truly long overdue and very much needed.

I also wish to make a point. I have listened closely to the comments of my colleagues from the other side of the aisle over the last several weeks. A few weeks ago, I heard the Senator from North Carolina, Mr. BURR, talking on this floor about health reform. He acknowledged that we need to change the health delivery system, which I agree with, but then he said our Democratic ideas won't work. He said one reason is because government programs don't do enough innovation and wellness and they won't help people make the lifestyle changes needed to get true savings in the health system.

Quoting from the CONGRESSIONAL RECORD, here is what else he said:

> Show me a government plan that pays for prevention, wellness, and chronic disease management, and I will quit coming to the floor and quit talking about the lack of reform.

Mr. President, I have one. I have a great example of just such a government plan that pays for all of those things, almost the whole thing, and gets incredible results. It comes from my home State, from an Alaska Native program called the Nuka Model of Care. It is based in Anchorage at the Southcentral Foundation, a nonprofit health system serving about 55,000 Alaska Natives.

The Nuka Model was developed about 10 years ago using the wisdom of Native leaders. They acted in response to what they saw as their own failing health care system. Like many other health providers in this country, the foundation recognized an alarming contradiction: As health costs continued to increase, the health status of their patients only got worse. More dollars going to health care only resulted in worse health outcomes.

So they decided to change things. From the ground up, they built a system of customer-driven health care. That is their term, not mine—''customer driven.''

''Nuka'' is a Native word associated with family, and that is certainly the approach. The Nuka model creates teams of health providers—doctors, nurses, medical assistants—to work with each patient. It requires doctors to listen to the patients, to really hear what customers are saying about their lifestyles, their jobs, their families, everything that affects their overall health.

It makes medical access much easier, guaranteeing that you can see your chosen provider for anything you want—same day. In person, via phone or e-mail—whatever is easier for the patient—same-day guarantee. Let me repeat that: same-day guarantee.

Here is another important point. Physician salaries are based on the team's overall performance. I want to make sure my friend, Senator BURR from North Carolina, hears this part. The Nuka model is funded almost entirely by the Federal Government—half by Indian Health Services and one-third by Medicaid or Medicare. It works, and it works very well.

This chart covers some of the most amazing results since the program started: a 50-percent drop in urgent care and emergency room visits; a 53-percent reduction in hospital admissions; a 65-percent drop in the need for expensive specialists; a childhood immunization rate of 93 percent, well above the State and national averages; much better management of diabetes with 50 percent of patients kept in the prediabetes stage instead of worsening into full diabetes; and happy customers. The overall satisfaction rate among our patients for this program is 91 percent.

The Nuka model has attracted attention from all over the world, as it should. Even as recent as last month, the former Speaker, Newt Gingrich, recognized this great program.

I am sure there are similar government-backed success stories throughout this country. I think I have made my point, and truly my remarks are not intended to single out any one Senator. But I will say this: As we debate health insurance reform in this Chamber, let's arm ourselves with the facts and with open minds. Let's not say no just because of partisan differences. Let's celebrate examples of innovation and excellence that work no matter where they come from, and let's use the successful models to extend good, quality care to millions more Americans.

I am proud of the Nuka model in Alaska, of the people who got it started a decade ago, and of the people who are making it work today.

I yield the floor.

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

Mrs. HAGAN. Mr. President, Senator BEGICH's comments on customer-driven care is certainly working in Alaska.

I now yield 5 minutes to my colleague from Colorado, Senator MICHAEL BENNET, for his discussion on transitional care.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. BENNET. Mr. President, I thank our colleague from North Carolina for organizing this discussion this morning and for the other freshmen here yet again, week after week, to talk about the urgent need for health care reform in this country.

My colleague, Senator UDALL from Colorado, did a wonderful job talking about the models we have of transitional care in Colorado, where we see some providers able to have merely a 3-percent readmission rate just because of the way they manage patients, patient-centered care, unlike the way we

do it all across the country, which is the reason we are at a 20-percent readmission hospital rate in the United States.

If we would put in some of these commonsense practices and worry about outcomes more and worry less about how many tests were given, in this case we could reduce the expenditure by $18 billion annually and provide better quality care. It is just one of the many ideas that is bubbling up from States all across the country.

I wish to spend a couple minutes today talking about the absurd waste of time that is caused by our current system of insurance in the United States. We have two examples in Colorado that have recently been covered by the newspapers out there. The first is a story about gender discrimination when it comes to insurance. It is about a woman in my state, Peggy Robertson of Golden, CO, who was denied coverage because she had what was called a preexisting condition, which was the C-section that she had when she gave birth to her son. The insurance company said they would not cover her unless she became sterilized.

Peggy came and testified about this in the committee, and her story has been repeated by many people across the State of Colorado. But it got the attention of another person in our State named Matt Temme of Castle Rock, CO, who wrote a letter to the editor that I almost could not believe when I read it.

We followed up with Matt, and it turned out that it was true. Matt was denied coverage because his wife, who is insured—she has her own insurance—was pregnant. Matt is a 40-year-old commercial pilot from Castle Rock. He was furloughed from his job at the end of June. His wife Wendy is a paralegal, and she is covered through her employer. They have a 6-year-old son.

As I mentioned a minute ago, Wendy is pregnant. It was too expensive for Matt and his son to join his wife's plan. Because he was furloughed, he went out shopping for a new plan on the individual market, which he thought would be easy. He first checked with his previous company's health insurance. He filled out all the paperwork for himself and his son. He is healthy, he is 40 years old, and he is not eligible for coverage because his wife found out she was pregnant. He told the insurance companies: My wife is already covered by another insurer.

They said to him: That is true, but if she suffers a fatality while giving birth to her child, that child is going to become a dependent of yours and therefore will be on the insurance you buy and therefore we are not going to sell it to you.

So now Matt had to go out to the market again. They have three plans. They have the plan his wife is on, already covered; they have another plan for his 6-year-old son; and now Matt is on a version of a public option that we have in Colorado called Cover Colorado.

When I read this letter, when we heard this story, when we talked with Matt, it reminded me again of all the stories that I have heard—that all of us have heard—over these many months when we have been discussing health care about all the wasted evenings and conversations and fights that people have over their telephone just to get basic insurance for their families so they can have the kind of stability all of us want to have for our kids, for our grandkids, and for our families.

That is what this insurance reform is about. It is time for us to set aside the usual politics, the special interests that always have prevented us from getting something done, and deliver reform that creates stability for working families all across our country, deliver reform that allows us to consume a smaller portion of our gross domestic product than we are today, deliver reform that allows us to begin to put this Federal Government back on a path of fiscal stability. It is high time to put this politics aside.

I know in this country we can do better than that. In the end, we will do better. Our working families and small businesses will be real beneficiaries of the reform that we pass.

I thank the Senator from North Carolina for giving me the opportunity to be here this morning. I appreciate her very important leadership on this critical issue.

I yield the floor.

Mrs. HAGAN. Mr. President, I thank Senator BENNET for his comments on transitional care and certainly the need to make sure no patients are denied insurance coverage for preexisting conditions and in particular because a wife is pregnant.

I yield 5 minutes to myself. I take this opportunity to talk about health care reform and how it will improve the delivery of health care to Americans.

One successful delivery system that health care reform will expand upon is patient-centered medical homes which were pioneered in my State of North Carolina. Since 1998, North Carolina has been implementing an enhanced medical home model of care and its Medicaid Program called Community Care of North Carolina.

Under this model, each patient has access to a primary care physician who is responsible for providing comprehensive and preventive care, working in collaboration with nurses, physician specialists, and other health care professionals.

The primary care physician is the go-to doctor and the gatekeeper of a patient's information. Within each network, patients are linked to a primary care provider to serve as a medical home that provides acute and preventive care, manages chronic illness, coordinates speciality care, and provides round-the-clock, on-call assistance. Case managers are integral members of the network and work in concert with the physicians to identify and manage care for high-cost, high-risk patients.

As of May of this year, Community Care of North Carolina was comprised of 14 networks that included more than 3,200 physicians and covered over 913,000 Medicaid patients in North Carolina, accounting for over 67 percent of the State's entire Medicaid population.

As an example of the benefits of a program such as this, consider the impact on asthma patients because patients get to see the same doctor and get more consistent, coordinated care. Physicians are able to quickly recognize a condition such as asthma and can more quickly and efficiently determine the most appropriate treatment. The support network then educates the patients and their families about the management of their disease.

Due to the increased likelihood of complications when asthma patients get the flu, it is very important that they receive the flu vaccine. Since 2004, within the Community Care of North Carolina, there has been a 112-percent increase in flu shots administered to asthma patients. More than 90 percent of patients are using the most appropriate medications.

Between 2003 and 2006, asthma-related hospitalizations were decreased by 40 percent, and emergency room visits decreased by 17 percent. That saves all of us dollars.

Community Care of North Carolina has improved patient care and saved the State money. An independent analysis by Mercer, which is a government consulting group, found that this program saved between $150 million and $170 million in 2006.

A University of North Carolina evaluation of asthma and diabetes patients found that it saved $3.3 million for asthma patients and $2.1 million for diabetic patients between 2000 and 2002.

In addition to asthma patients, diabetic patients also had fewer hospitalizations, and they visited the primary care doctors more often instead of specialists and had better health outcomes.

I would like to tell a story about how access to a medical home has helped someone in North Carolina overcome the challenges of an illness.

Donald from Charlotte has type 2 diabetes. This diabetic condition of his went untreated for a long time and, as a result, he began having ministrokes, had to cut back on his work in landscaping, and he ended up in an emergency room. He was referred to a Charlotte-based medical home program called Physicians Reach Out. He now has a primary care doctor who has helped get him on a medication regimen, returning his blood sugar to a normal level which allowed him to work full time again. His primary care physician was the key to teaching him how to manage his diabetes. Without his medical home, he said getting his condition under control would have been a ''wild goose chase.''

The Health, Education, Labor, and Pensions Committee included two provisions in the health care reform bill to

encourage patient-centered medical homes, such as we have in North Carolina. The Secretary of Health and Human Services will create a program to support the development of medical homes, and then the other States will apply for grants.

The bill also provides grants for physician training programs, giving priority to those who educate students in these physician training programs that are team-based approaches, including the patient-centered medical home.

I have been focused on a reform bill that prevents insurance companies from turning patients away who have a preexisting condition, that expands coverage, and ensures that if you like your insurance and your doctors, you keep them. This bill actually will reduce our deficit, and that, obviously, has been a requirement of mine all along. This bill also encourages innovation in the delivery of health care to Americans using successful programs, such as the Community Care of North Carolina and the Physicians Reach Out patient-centered medical home as a model.

Mr. President, now I wish to yield 5 minutes to my colleague from New Mexico, Senator TOM UDALL, to talk about a model of community health service delivery.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. I thank Senator HAGAN very much, and thank her for her statement today and leading us on the floor in this discussion of health care.

In my case, I want to talk a little bit about health care delivery systems.

First, let me say I know when we talk about a health care delivery system it is a little bit of a wonky term. Most Americans' eyes probably glaze over when experts, politicians, or pundits describe the problems with our health care delivery system. They don't know what it has to do with their health care experience, their doctors, or their lives.

The reality is health care delivery systems have everything to do with all of that. These delivery systems determine how Americans receive their care. They dictate how a doctor treats their patients, how long a patient must wait for treatment, how much a hospital charges for its services, and how the medical community is held accountable for its mistakes.

As we continue working to reform health care, we must take an honest look at our current health care delivery system and ask ourselves some basic questions, questions such as: Do the systems we currently use to deliver health care work? Are we, as patients, businesses, and governments, getting the best value for our health care dollar? Do these systems encourage efficient, coordinated care?

If you ask the experts on this subject, the answer you will likely get is a loud and resounding ''no.''

The way I look at the role of health care delivery systems is the same way I look at building a house. To build a strong, solid, safe house, you have to start with a strong, solid, safe foundation. Our health care delivery systems are the foundation for all of our efforts in health care. If that foundation is off center or cracked or built on uneven ground, it does not even matter how straight the walls are or how efficient the electrical system is, nothing is going to work right.

Right now, the vast majority of health care in America rests on shaky foundations. It is our job to rebuild these foundations before more Americans slip through the cracks. The good news is that across the country, communities are achieving success with innovative health care delivery programs. We should look at these models as we continue our work here in Washington.

There is one example I wish to highlight today. That example comes from my home State of New Mexico, from a county that makes up the boot heel of the southwestern corner. Hidalgo County is one of the most rural counties of my State, with a population of 5,000 people. Hidalgo faces the same health care delivery problems as other rural areas. There are not enough doctors. Patients must travel long distances for care and, as a result, there are higher rates of chronic diseases and health problems that require specialized treatment.

To meet these challenges, the Hidalgo County medical community had to think outside the box. What they came up with is the Hidalgo Health Commons. It uses four guiding principles in its approach to health care.

First, they acknowledge that in rural areas, chronic health conditions are worsened by limited access to health providers and are often compounded by poverty.

Second, to respond to this challenge they established a one-stop shop for medical and social services. At the clinic you can find doctors, nurses, and dentists, seek mental health treatment, fill a prescription, get Medicaid or Medicare, or apply for public assistance such as WIC.

Third, they work with the community to identify local health priorities and then align their services accordingly.

Finally, they are a source of local economic and social development by creating jobs, serving schools, and offering family support.

The health commons model has worked so well that it has grown to serve five sites across New Mexico and they are not stopping there. The new Hidalgo initiative, which is still in development, will expand on the success of the health commons. The goal is to enroll all 5,000 residents of Hidalgo County into the health services program.

Hidalgo County is just one example of the innovative work going on across the country and it serves as a lesson to all of us that faulty foundations do not fix themselves. They require hard work and ingenuity and significant investment.

If we are going to fully transform our Nation's ailing health care system, we must first focus on the foundation. We must first reform our health care delivery systems.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I thank Senator UDALL. His example of the community health service delivery in New Mexico is excellent.

Now I yield 5 minutes to my colleague from New Hampshire, Senator JEANNE SHAHEEN, to talk about reducing overutilization of emergency departments and reducing hospital readmissions.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I thank Senator HAGAN for organizing the effort today and also for her great work on the HELP Committee to develop a health care reform bill that can be supported by this body.

Once again we are here to talk about health care reform and why it is so urgently needed. We are at a critical juncture because health care costs are out of control. They are a threat to our families, our small businesses, our economy and, despite all the money we are spending on health care, we are not guaranteed better health outcomes. That means because we are spending money doesn't mean that people are healthier. The truth is, we can control costs and improve quality. We can do this by promoting effective delivery models. Senator UDALL did a great job of talking about what that term means in real language. We can promote effective delivery models that emphasize coordination and individualized care.

As I have said on a number of occasions, I am proud of the innovations that are changing health care delivery in New Hampshire, my home State. One of those that has been recognized nationally is the Dartmouth Atlas project, based in Hanover. Because of the work of the Dartmouth Atlas project, we now know that there are significant variations in the way health care resources are used and how money is spent depending on where we live.

Right now, providers are rewarded for volume rather than for value. There is a chart here that shows that very clearly. It shows the difference in spending among different regions of the country for Medicare patients. As you can see, the areas that are dark red are the most expensive, these areas. The areas that are lightest are the least expensive areas when it comes to cost per Medicare patient—from $5,280 to $6,600 in the lowest spending regions all the way up to $8,600 to $14,360 per Medicare

patient in these darkest regions of the country.

Unfortunately, the sad thing about this research is not the changes in cost, but it is the fact that because someone lives in an area where the spending is higher doesn't mean they are going to have better health outcomes. Put very simply, more costly care does not mean better care. This is a fundamental problem with our health care system. The way our health care dollars are being spent right now is analogous to a medical arms race. That is not my term, that is by Dr. Elliott Fisher, from the Atlas Project. Too often we judge the quality of our hospitals, for example, based on a new expansion wing or the latest medical device, and not on comparing the quality of care they provide.

Over the past several months, thousands of my constituents have expressed their concerns about our health care system. Last week, Dr. Jim Kelly, from Hollis, NH, was in my office sharing his concerns and frustrations. Dr. Kelly is a family physician and, like so many of our health care providers, he is dedicated to doing the best job he can for his patients. However, inefficiencies in our system often work against the best efforts of our providers.

Dr. Kelly shared one of those experiences. He talked about one of his patients who was a 73-year-old woman with diabetes who came into his office on a Friday morning with a swollen, red, and tender leg. In addition to her own illness, she is the sole caretaker for her 79-year-old husband who recently had a stroke. Dr. Kelly diagnosed her condition, a relatively common one, as cellulitis, a skin infection which required IV antibiotics. Dr. Kelly gave her the first dose in his office, but Medicare would not cover her infusion therapy at home. As a result, Dr. Kelly was forced to send her to the local emergency room to receive treatment over the weekend. As a result, she had to bring her disabled husband, whom she couldn't leave at home alone, to the emergency room. Both of them were forced to sit in the crowded ER, exposing them to more germs and using resources that could be used much more efficiently.

Unfortunately, our system does not always facilitate efficient and coordinated care. This is too often true with our most vulnerable patients.

But there are innovative projects across the country that have adapted to meet the needs of these individuals. By providing increased outreach and care coordination, one pilot program was able to reduce visits to the emergency room by almost two-thirds, after 2 years of participation.

I recently introduced the REDUCE Act, which is modeled after these successful pilots, and which I believe will change the way care is delivered to these high-risk patients with multiple chronic conditions. I think that is very important to point out.

The REDUCE Act will create demonstration projects in 10 States that are modeled off of these approaches that have been successful in places around the country. This is the type of delivery system reform that improves quality and reduces costs simultaneously.

As I have said many times, the challenge we face is great, but we have the resources and the tools we need to reform our health care system. We can do this in a fiscally responsible way. By improving the way we deliver care, we can maximize efficiency and we can improve quality. This is the type of reform all Americans deserve. This is the type of reform we are working on here in the Senate. This is the type of reform I hope our colleagues will all support.

I thank Senator HAGAN and I yield my time back to her.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina

Mrs. HAGAN. Mr. President, I thank my colleague. She has made it abundantly clear that by reducing the overutilization of emergency departments, at the same time reducing hospital admissions, we can maximize efficiencies and improve patient health and health care.

I yield 5 minutes to my colleague from Virginia, Senator MARK WARNER, to talk about delivery system reforms in Virginia.

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

Mr. WARNER. Mr. President, I thank my colleague from North Carolina for organizing the freshmen one more time to talk about our vision for health care reform. We invite our colleagues not only on our side of the aisle but our colleagues across the aisle to join us in this conversation about how to get health care reform right. I also commend my colleague from New Hampshire, Senator SHAHEEN, on her comments about how we can fix financial incentives in our current health care system. I think reforming our delivery system ought to be, clearly, part of any overall health care reform we take on.

I want to pick up, actually, where Senator SHAHEEN left off and talk about how we can readjust our financial incentives system in health care. We have them all wrong. We have a health care system right now that rewards bad practices. We have a health care system that rewards hospitals for multiple readmissions rather than a low readmission rate. We have a health care system that rewards volume of care rather than quality of care. Reforming the financial incentives in our delivery system has to be a key component of any health care reform going forward.

I join my colleagues in citing examples of delivery system reforms that are happening now in my own state. I have three examples here from the Commonwealth of Virginia.

In 2000, VCU Health System in Richmond, our capital, developed a system called Virginia Coordinated Care to manage health care services for the uninsured. The uninsured often rely on emergency rooms to be treated for their illnesses and then go back home until they get sick again. There is no continuity of care and oftentimes that uninsured person will end up back on an emergency room doorstep because, outside of being treated for the episodic incident, there was no management of that patient's care during that period.

What VCU developed was a program that assigned a primary care physician to oversee each uninsured patient's health. The goal was to increase coordination between doctors and hospitals and, as a result, increase accountability, improve quality of care, and lower costs.

The Virginia Coordinated Care program started with a few participants in 2000; by 2009, there were over 20,000 members. One of the most important outcomes of the program was a significant drop in emergency room visits by enrolled patients. By increasing continuity of care, emergency room visits dropped 14 percent between 2000 and 2005. Costs were reduced for Richmond area hospitals, as well as surrounding Virginia hospitals as fewer patients showed up at other emergency rooms. By treating the patient earlier in their illness the program achieved better quality of care, and better results for the health care system as a whole.

Another example of delivery system reform took place at another end of our State, at Sentara Healthcare, located in Norfolk, VA. In 1999, Sentara studies found that intensive care units that were monitored by a doctor full time had lower mortality rates and shorter length of stays than those that were not. In order to improve quality of care, Sentara worked with a company called VISICU to install Web-based television cameras in each patient's room. With this technology, a single physician in a central location can follow patients in multiple rooms at the same time. Again, this kind of logical approach produced more efficient care at a lower cost. Sentara saw a 25-percent reduction in mortality among these patients, a 17-percent reduction in their length of stay, and a 150-percent return on investment in the program.

Perhaps the best example is now being modeled by the Carilion Clinic in Roanoke, VA. Carilion Clinic is a multispecialty health care organization, with more than 600 doctors and 8 health care organizations.

In 2010, next year, Carilion Clinic will join with Engelberg Center for Health Care Reform at Brookings and the Dartmouth Institute for Health Policy and Clinical Practice to implement a new and innovative health care model that rewards providers for improving patient outcomes while also lowering costs. This Accountable Care Organization will encourage physicians, hospitals, insurance companies, and the

government to work together to coordinate care, improve quality, and reduce costs. Under this model, providers will assume greater responsibility not only for treating the patient's illness but for the overall quality and cost of care to be delivered. They will actually be incentivized to take steps to keep patients healthy, while avoiding costly medications and procedures. Additionally, this model will encourage, and make it affordable, for doctors to finally practice preventive care. Carilion Clinic is doing the right thing: moving away from the current, and very flawed, fee-for-service system.

As long as our health care system—one-sixth of our economy—continues to reward providers simply based on quantity rather than quality of care, we are never going to get health care reform right. By increasing coordination of care, and putting in place smarter financial incentives, we can have higher quality care at lower costs. We can focus on the health of patients, rather than the number of procedures. Changing our payment mechanisms and restructuring financial incentives are a key part of health care reform.

I know my freshmen colleagues stand ready to work with our colleagues on this side of the aisle, and I again invite our colleagues on the other side of the aisle to join us in this effort. Getting it right will lead to improved quality of care, lower costs, and a healthier America.

I thank our leader today, the Senator from North Carolina, for granting me this time. I look forward to working with Senator HAGAN and all my colleagues as we move forward.

I yield the floor.

Mrs. HAGAN. I thank Senator WARNER. It is obvious that coordinated care will reduce costs and at the same time provide higher quality for our patients.

What Senator WARNER has discussed is very similar to the patient centered medical homes in North Carolina where we currently cover over 900,000 Medicaid patients.

Finally, I yield 5 minutes of my time to my new colleague from Massachusetts, Senator PAUL KIRK, to discuss some key national indicators.

Mr. KIRK. Mr. President, I thank the Senator from North Carolina. It is a privilege to be a member of her class and the class of distinguished colleagues of freshmen, and I commend her as well for her leadership in this discussion this morning, adding onto the role the freshman class is playing in advocating for health care reform for the American people.

I would like to speak this morning about a key national indicators system.

As we know, America is said to lead the world in health innovation. It can create the finest medical devices, the most effective drugs to treat diseases and advanced processes and procedures to care for patients. It is this wide range of remarkable innovations that has resulted in today's $2.3 trillion health care industry. But despite all of our medical achievements and technologies and the private and public money we spend on health care, we do not lead the world in health outcomes.

We need to innovate not only in the way we treat patients but in the way we create and implement health care policy. For that reason, one of the most promising provisions in the draft health reform measures about to come before us is the creation of a key national indicators system.

When illness strikes, we expect a health care team to carefully collect information from the patient and then consult the wide range of information available to them to achieve the appropriate diagnosis and treatment. That careful and complete process should yield the best possible course of treatment and recovery.

We need the same kind of approach in the creation of wise health care policy. In particular, we need measures to identify what is wrong with our current health care system, including what is driving the increasingly high cost of care. Abundant research and reports have analyzed such questions. What is missing is a central, independent organization that can analyze all of the research performed by various organizations and make that information readily available to Congress, to the executive branch, and the American people. That is an indispensable part of successful health reform. It will give decisionmakers easier access to all the knowledge available and eliminate wasteful spending of the hard-earned dollars of American families.

Senator Kennedy and Senator ENZI, in a strong, bipartisan effort, understood the need for this vital resource, and they designed a key national indicators system to provide it. It will be a nonpartisan, independent agency with a public-private partnership. It will foster better relations and relationships between members of the legislative, statistical, and scientific communities and will lead to greater transparency and accountability for spending on national health programs. Without such a resource, we will be at a serious disadvantage in fully understanding emerging health risks and in assessing whether the intended result is being achieved or adequate progress is being made on the health care challenges facing us.

The key national indicators system will make all its data available on a newly created, widely accessible Web site in the health care context. This unprecedented accessibility of data will assist the public in understanding what information was used by politicians in creating health care policies. It will enable policymakers to see whether progress is being made in health reform. And it will permit practitioners and researchers to use the information for the greater benefit of patients and consumers of health and medical care.

Significant progress in this area has already been accomplished. Over the years, the Institute of Medicine has been able to identify five drivers of health care quality and costs: first, health outcomes; second, health-related behaviors; third, health system performance; fourth, social and physical environment; and fifth, demographic disparities. The institute has recommended 20 specific indicators for measuring these five drivers of health care quality and cost. These indicators were carefully selected to reflect both the overall health of the Nation and the efficiency and effectiveness of our health care industry. However, the institute lacks an implementation system that can use these indicators effectively to guide future policy and practice. That is the goal and that is the mission of the new agency, the key national indicators system, we propose.

Here is one example of how this legislation will improve our health care system. A recent study conducted by the Harvard School of Public Health found that using a simple checklist during surgical procedures resulted in a one-third reduction of complications from that surgery. Reports such as these are made public, but you have to know where to look in order to access this information. The key national indicators system will take these reports, compile them, disseminate them, and make them available to the public. So any time a bill is being developed, a congressional office can go to this Web site and see all of the research that has been conducted on the topic in order to make economically sound decisions for the American people.

Currently, Congress and the executive branch continue to follow old habits. We tend to reinvent the wheel with every major new bill that is introduced. That approach leads to wasted time, wasted energy, and wasted money. Old habits are not good enough to achieve tomorrow's goals. By developing this indicator system, a process will be in place so that the efficiency and effectiveness of government spending on short-, medium-, and long-term problems can be determined quickly and in a fiscally responsible manner.

Our current system is unsustainable. It creates unnecessary confusion when Americans can least afford it. We need a system that will provide insight, foresight, transparency, and accountability. We will not be doing our job for the American people if we allow their money to be spent without assessing the cost-effectiveness of the various programs being developed.

By creating the key national indicators system, we can reassure all Americans that we did our required due diligence and that our health care reform bill will truly work for them.

I yield the floor.

Mrs. HAGAN. Mr. President, I thank Senator KIRK. I thank him for his comments and the discussion on the transparency and openness of the new key national indicators system. I think

this is critically important so that our public can see the progress we are making in improving health outcomes, healthy behavior, and cost-effectiveness.

In this last hour, we have heard from many of our new freshman colleagues about the successful efforts to reform the way we deliver health care in our country. I thank my colleagues for sharing those ideas with us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

HEALTH CARE REFORM

Mr. CRAPO. I, too, would like to talk about health care. As we speak here in the Senate, the House is preparing to debate and reportedly vote by late this week or early next week on a massive new health care bill that will dramatically expand the size of our government, dramatically increase taxes, and establish a government-controlled insurance system.

While in the Senate we are not yet clearly aware of what the bill we will be debating is because it is still being crafted behind closed doors, we have an idea, and we are pretty sure some of the elements that are going to be included in it are the same elements we debated in the Finance Committee and the HELP Committee as those committees worked on their product here. In that context, we expect we will see also here in the Senate a massive new expansion of the size of government, up to $1 trillion or more. If it is anything like what the Finance Committee bill was, we will see taxes increased on the American public by over $500 billion, we will see cuts in Medicare, which we discussed yesterday, of over $400 billion, and a significant expansion of the control of the Federal Government over our health care economy. Today, I want to focus on just the tax piece of this situation.

One of the most common provisions we have seen here in the Senate that we clearly expect will be in the final bill is the proposed 40-percent excise tax on high-cost or ''Cadillac'' health care plans. This has been defined as health care plans that are valued at more than $8,000 for an individual or valued at more than $21,000 for a family.

It is important to note these thresholds are not indexed to the increasing cost of health care spending but instead are indexed to inflation plus 1, which means that over time this will, similar to the alternative minimum tax, eat further and further into the American public's health care plans, which will then be taxed.

The Joint Tax Committee has scored this tax to generate $201 billion of revenue to pay for that portion, $201 billion of this new Federal spending proposal. Many think that because it is called an excise tax on health care plans, it is not going to impact them. They will be surprised to learn that in my questioning of the Joint Tax Committee, we were told the vast majority of this $201 billion tax is expected to be collected directly from the middle class, individuals who will be paying more income and payroll taxes.

Let's figure out how that can be. It turns out that as we analyze the way this tax is going to work, employers that will face a 40-percent excise tax on the health care they provide to their employees will begin to adjust the value of their health care plans so they avoid the tax. As they do so, they will reduce the health care they are providing to their employees and, presumably—and we expect they will—increase the wages they are paying to their employees so their employees' net compensation is not changed. The result of that, though, is that since the health care portion of the compensation is not taxed and the income portion of an employee's compensation is taxed, the employee will actually pay higher taxes, both on the income and on the payroll tax level.

Maybe a real-world example will demonstrate. In my State of Idaho, the Census Bureau says the median household income is about $55,000 per year. In this case, let's take an example of a single woman who currently earns $60,000 per year in annual compensation from her employer. We have an example represented by this chart. Let's assume she has a $10,000 valued health policy. Her total compensation package from her employer is going to be $60,000–$50,000 in wages and $10,000 in employer-provided health care benefits. She is taxed on $50,000 and gets the $10,000 health care benefit without taxation. What will happen in the bill, as I have indicated, is this $10,000 health care policy will be subject to a 40-percent excise tax. In order to avoid that excise tax, the company will simply react by reducing her health care policy to below $8,000 and increase her income.

Let's put up another chart to see what the likely reaction of the employer will be: Not to pay the insurance fee, as many here are saying, but simply to skip that and direct her tax dollars to the Federal Government. If this new high-cost plan is to be enacted, the theory is her employer will make the adjustments to change her overall compensation package in a way that she ends up with higher wages.

Let's put the next chart up to show how this would work. Under this proposal, her health care benefits are going to go down. Let's assume the company reduces her health care benefits from $10,000 in value to $6,000 in value and gives her the extra $4,000 in income. Her health care benefits will go down. She will pay more taxes because she now has $4,000 more of her package that is subject to compensation. The net value of her compensation will go down because of increased taxes. The result is, we are going to see millions of Americans pay this excise tax squarely in contravention of the President's promise that no individuals who make less than $200,000 will pay income taxes or payroll taxes or, in the President's words, ''any other kind of taxes.''

So we are clear on this, the estimates are that 84 percent of this tax is going to be paid by those who are earning less than $200,000 per year. As a matter of fact, if we look at those who make less than $50,000 a year, we expect somewhere in the neighborhood of 8 million Americans will fall into this category. If we look at the number who make less than $200,000 per year, we expect that number will be above 25 million Americans who will be paying more taxes, both payroll and income taxes, and receiving less health care benefits from their employer.

The net result is, the President's promise that one can keep their health care if they like it will not be honored because of this provision. People will see, necessarily, that their employers will begin reducing health care packages to make them fit the tax structure this bill will create.

Secondly, there is the President's promise that if you make less than $200,000 as an individual or $250,000 as a family, you will pay no taxes under this proposal. As we have seen with this one example—and there are a number of other examples in the proposal being developed—in this one example of $201 billion worth of the new taxes in the bill, those making less than $200,000 will pay over 80 percent of it, and it will come directly out of their pockets and their compensation package with their employer.

In the time I have remaining, I wish to focus on one additional element. There is also a proposal to increase the bar for deductions of health care expenses. In other words, those who deduct their expenses and itemize their deductions can today deduct that portion of their income over 7.5 percent of their income that is represented by their health care expenses. This bill will increase that to 10 percent and generate over $15 billion of additional taxes in that format. Who is the most likely to pay these taxes? People who have relatively low health care costs are going to end up not meeting that 7.5-percent threshold, now to be brought to 10 percent, and probably will not be able to benefit from the deductibility of their health care. But those who face medical crises, those who have health care expenses that exceed the value of 10 percent, will see their deductibility reduced again by these proposals. The net result: Millions of Americans making less than $200,000 a year will pay more taxes.

I encourage the Senate, as we move forward in the debate, to recognize that the tax provisions contained in it are squarely going to hit those in the middle class.

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

Mr. GRASSLEY. Mr. President, I am sorry the Presiding Officer, the Senator from Virginia, has to listen to me twice on the same subject.

When I am referring to a bill, I am referring to the 2,000-page House bill.

Small business is very vital to the health of our economy. The President and I agree that 70 percent of new private sector jobs are created by small business. Small business is the employment machine of the American economy. However, where the President and I differ is, I believe small business taxes should be lowered, not raised, to get our economy back on track. You will hear from my discussion, this 2,000-page bill raises taxes on small business.

The President and my colleagues on the other side of the aisle have proposed increasing the top marginal tax rates from 35 percent to 39.6 percent, respectively. We can see that on the chart under the proposed Obama budget, 39.6 percent is where they would raise them. They have also proposed increasing the tax rates on capital gains and dividends to 20 percent and providing for an estate tax rate as high as 45 percent and an exemption of that estate tax of $3.5 million. Also, the President and congressional Democrats have called for fully reinstating the personal exemption phase-out. I will refer to the personal exemption phase-out as PEP. They would do that for those making more than $200,000 a year. In addition, they have called for fully reinstating the limitation on itemized deductions, which is known as Pease after a former Congressman Pease of Ohio, for those making also more than $200,000.

Under the 2001 tax law, PEPs and Pease are scheduled to be completely phased out in 2010. That means the tax rate for current 35-percent-rate taxpayers would go up, as we can see on the chart, to 41 percent. For the vast majority of people who earn less than $200,000, raising taxes on high earners might not sound so bad. However, this means many small businesses will be hit with a higher tax bill. From the standpoint of it being where they create 70 percent of the new jobs, that is bad not only for those taxpayers, that is bad for the entire economy.

As if this was not bad enough for small business, the tax increases I have already talked about, the House Democrats, in this 2,000-page health care reform bill, have proposed a new surtax of 5.4 percent. With this small business surtax, a family of four in the top bracket will pay a marginal tax rate of 46.4 percent by the year 2011. So we go from current law of 35 percent to automatically, if Congress doesn't intervene, 39.6 percent; and then eliminate the PEPs and Pease, 41 percent; and then do what the House Democrats want to do, 46.4 percent, a marginal tax rate that is very high and very negative to employment by small business.

This tax change would result, cumulatively, in an increase of marginal tax rates of 33 percent, a 33-percent increase over what taxes people pay right now.

Owners of the many small businesses, whether regular—which could be so-called C corporations—or other entities that receive dividends or realize capital gains, would face a 25-percent rate increase under this House bill. So we have a 15-percent capital gains rate today on dividends going up almost 70 percent by January 1, 2011.

Campaign promises are pretty important. Candidate Obama pledged on the campaign trail that:

> Everyone in America—everyone—will pay lower taxes than they would under rates Bill Clinton had in the 1990s.

That is quite a promise. That is good for business, if it is lower than what Bill Clinton had. The small business surtax proposed by House Democrats, however, violates President Obama's pledge he made as a candidate. Therefore, I want Members to know I stand with President Obama in opposing the small business surtax proposed by House Democrats in this bill, this 2,000-page bill.

According to the National Federation of Independent Businesses—they made a survey—their data shows that 50 percent of the owners of small businesses that employ 20 to 249 workers would fall into the top bracket. The red bar shows 50 percent of all small employers fall into that bracket. According to the Small Business Administration, about two-thirds of the Nation's small business workers are employed by small businesses with 20 to 500 employees.

Do we want to raise taxes on these small businesses that create new jobs and employ two-thirds of all small business workers?

In his radio address a few months ago, the President noted small businesses are hurting. They are hurting because we are helping Wall Street, but we are not helping Main Street with all the things we are doing in Congress. Of course, there is no argument from this side of the aisle on that point.

President Obama recognized in that speech the credit crunch on small businesses continues, despite hundreds of billions in bailout money to big banks. With these small businesses already suffering from the credit crunch, do we want to think it is wise to hit them with a double whammy of a 33-percent increase in their marginal tax rate?

Just yesterday, we received data from the nonpartisan official congressional tax scorekeepers, the Joint Committee on Taxation, that said $1 out of every $3 raised by the massive $461 billion House surtax—and that is in this 2,000-page bill—would come from small businesses. That is a conservative, a very conservative estimate because other kinds of income that these business owners receive, such as capital gains and dividends, are not included in that figure.

If the proponents of the marginal rate increase on small business owners agree that a 33-percent tax increase for half—half—the small businesses that employ two-thirds of all small business workers is not wise, then they should either oppose these tax increases or present data that shows different results.

This House bill of 2,000 pages and the surtax included in it piles on the heavy taxes small businesses will face. In a time when many businesses are struggling to stay afloat, does it make sense to impose an additional burden on them by raising their taxes? Odds are, they will cut spending. In other words, the small businesses will cut spending. They will cancel orders for new equipment, cut health insurance for their employees, stop hiring, and lay off people.

Instead of seeking to raise taxes on those who create jobs in our economy, our policies need to focus on reducing excessive tax and regulatory barriers that stand in the way of small businesses and the private sector making investments, expanding production, and creating sustainable jobs—creating sustainable jobs, which is what I refer to as small business being the job-creating miracle of our economy.

So I want you to know, regardless of this 2,000-page House bill, with these big tax increases in it, I will continue to fight to prevent a dramatic tax increase on our Nation's job engine, the small businesses of America.

I hope my friends on the other side of the aisle will follow accordingly.

Mr. President, I ask unanimous consent that a statement from the Joint Committee on Taxation, backing up some of the figures I used in my speech, be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, November 3, 2009.

MEMORANDUM

To: Mark Prater, Nick Wyatt, and Jim Lyons
From: Tom Barthold
Subject: Revenue Estimate

This memorandum is in response to your request of October 30, 2009, for an estimate of the percentage of revenue raised from the 5.4-percent AGI surtax included in the "Affordable Health Care for America Act" attributable to business income.

For purposes of this analysis, business income consists of income from sole proprietorships (Schedule C); farm income (Schedule F); and income from rental real estate, royalties, partnerships, subchapter S corporations, estates and trusts, and real estate mortgage investment conduits (Schedule E), as would be reported on lines 12, 17, and 18 of the 2008 Form 1040. We do not count as "business income" income from interest, dividends, or capital gains that may flow through certain pass-through entities but which is reported elsewhere on an individual's return.

Under the "Affordable Health Care for America Act," a 5.4-percent surtax would be imposed on adjusted gross income ("AGI") in excess of $500,000 ($1,000,000 in the case of a married taxpayer filing a joint return). For purposes of responding to your request, we have assumed that net positive business income is "stacked" last relative to the other

income components of AGI. For example, a married taxpayer filing jointly with $2 million of AGI including $500,000 of net business income would have one-half of the taxpayer's $54,000 surtax liability under the ''Affordable Health Care for America Act'' attributed to the taxpayer's net business income.

We estimate that one-third of the $460.5 billion estimated to be raised in fiscal years 2011–2019 from the 5.4-percent AGI surtax under the ''Affordable Health Care for America Act'' is attributed to business income.

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KIRK). The Senator from Indiana.

START TREATY INSPECTIONS LEGISLATION

Mr. LUGAR. Mr. President, I rise to speak on S. 2727, the START I Treaty Inspections and Monitoring Protocol Continuation Act of 2009, which I introduced yesterday.

This bill provides authority that would allow the President of the United States to extend, on a reciprocal basis, privileges and immunities to Russian arms inspection teams that may come to the United States to carry out inspections permitted under the Strategic Arms Reduction Treaty or START I.

This bill is necessary because, on December 5—1 month from today—the START I treaty will expire. This treaty, signed in 1991, is obscure to many in the Senate. Only 26 current Senators were serving at the time we voted on the resolution of ratification in October 1992. But the START I treaty has been vitally important to arms control efforts up to the present day because it contains a comprehensive verification regime that undergirds every existing United States-Russian treaty that deals with strategic arms control.

It is essential to understand that a successful arms control regime depends on much more than mutual agreement on the numbers of weapons to be eliminated. Arms control agreements also must provide for verification measures, including seemingly mundane details, such as delineating the privileges and responsibilities of verification teams operating in each other's countries, as well as the procedures for conducting those inspections.

These details require legal authorization that minimizes disputes and reinforces reciprocal expectations of how the verification regime will function. If the legal authorization for strategic arms control verification lapses, as it will in 1 month, we will be creating unnecessary risks for the national security of the United States and our working relationship with Russia.

It had been my hope that the previous and current administrations would have made substantially more progress in ensuring the continuity of the START I verification system so the legal authorities I am proposing would not be necessary. But we have reached the point where both the United States and Russia must take steps to ensure the continuity of verification mechanisms.

In 2002, the Senate considered the Moscow Treaty governing strategic nuclear forces. That treaty contained no verification mechanisms. Instead, it relied on the verification regime established in the START I treaty. During Senate consideration of the Moscow Treaty, I asked Secretary of State Colin Powell and Secretary of Defense Donald Rumsfeld about the apparent gap in verification that could occur, given that the Moscow Treaty extends to 2012, while the START I verification provisions were set to expire on December 5, 2009, this year.

Secretary Powell stated:

It did not seem to be something that was pressing at the moment.

He said that during negotiations on the Moscow Treaty, consideration was given to extending the START verification regime past 2009 in a separate negotiation or that the transparency measures under the Moscow Treaty could be maximized in some way to provide for enhanced verification. But Secretary Powell said, in 2002, that we had ''some 7 years to find an answer to that question.''

Likewise, Secretary Rumsfeld was questioned about the verification gap created by the 2009 expiration of START. He stated:

There is [a gap], from 2009 to 2012, exactly. But between now and 2009 . . . there is plenty of time to sort through what we will do thereafter. . . .Will we be able to do something that is better than the START treaty? I hope so. Do we have a number of years that we can work on that? Yes.

I was pleased to play a role in securing ratification of the Moscow Treaty on March 6, 2003. But, at that time Senators were led to understand the Bush administration would begin work with Russia on codifying a verification regime under the Moscow Treaty, either by continuing the START verification regime past 2009 or through other measures. Neither was accomplished.

The START treaty itself provides that the parties must meet to extend the treaty ''no later than one year before the expiration of the 15-year period'' of its duration. In 2008, we witnessed the conflict in Georgia. December 5, 2008, was the date by which the United States and Russia would have to meet to satisfy the treaty's requirements. Many worried that the atmosphere created by the Georgia situation would prevent the United States and Russia from conducting such a meeting. But to the Bush administration's credit, a meeting was held that provided us the possibility of extending the treaty. But the clock kept ticking.

I noted during Secretary Clinton's confirmation hearings, on January 13, 2009, it was vital that the START treaty be renewed. At that time, she assured the committee that ''we will have a very strong commitment to the START Treaty negotiation.'' I do not doubt that commitment. I am hopeful the capable negotiators we have deployed to Geneva will achieve a new treaty in the remaining 30 days before expiration. But even if that happens, the time required for a thorough Senate consideration of the treaty ensures that it will not be ratified before START I expires.

At the core of the START treaty rests its verification regime—a system of data exchanges and more than 80 different types of notifications covering movement, changes in status, conversion, elimination, testing, and technical characteristics of new and existing strategic offensive arms. This data is further verified through an inspection regime. The START I treaty inspection protocol permits no less than 12 different types of inspections pursuant to the treaty.

According to a fact sheet released by the Department of State in July 2009, the United States has conducted more than 600 START inspections in Belarus, Kazakhstan, Russia, and Ukraine. Russia has conducted more than 400 inspections in the United States. These intrusive, onsite inspections permit the United States to verify the kinds and types of Russian weapons being deployed, as well as to examine modified versions of Russia's weapons. It is this ability, in addition to our own national technical means, that gives us the capabilities and confidence to ensure effective verification of the treaty.

Some skeptics have pointed out Russia may not be in total compliance with its obligations under START. Others have expressed opposition to the START treaty on the basis that no arms control agreement is 100-percent verifiable. But such concerns fail to appreciate how much information is provided through the exchanges of data mandated by the treaty, onsite inspections, and national technical means. Our experiences, over many years, have proven the effectiveness of the treaty's verification provisions and served to build a basis for confidence between the two countries when doubts arose. The bottom line is, the United States is far safer as a result of these 600 START inspections than we would be without them.

Testifying before the Foreign Relations Committee on the INF Treaty in 1988, Paul Nitze provided the definition of ''effective verification.'' He stated:

What do we mean by effective verification? We mean that we want to be sure that, if the other side moves beyond the limits of the Treaty in any militarily significant way, we would be able to detect such a violation in time to respond effectively and thereby deny the other side the benefit of the violation.

In a similar vein, Secretary of Defense Bob Gates testified in 1992, when he was Director of Central Intelligence, that the START treaty was effectively verifiable and that the data it provides would give us the ability to detect militarily significant cheating.

The Senate has repeatedly expressed confidence in the START I verification procedures. It approved the START I treaty in 1992, by a vote of 93 to 6. In

1996, it approved the START II treaty, which relied on the START I verification regime, by a vote of 87 to 4. Likewise, the Moscow Treaty was approved by a vote of 95 to 0.

The current administration has employed a capable team in Geneva. Just last week, National Security Adviser Jim Jones went to Moscow to underscore the importance of achieving agreement on a successor to the START treaty. The administration has publicly stated it seeks a new treaty that will ''combine the predictability of START and the flexibility of the Moscow Treaty, but at lower numbers of delivery vehicles and their associated warheads.''

This predictability stems directly from START's verifiability.

So far, most of the public discussion surrounding a potential successor agreement has focused on further reductions in strategic nuclear weapons. Scant attention has been paid to the verification arrangements for such a follow-on agreement. Informally, we understand that we will yet again be relying on START's verification regime in the new agreement. For me, this will be the key determinant in assessing whether a follow-on agreement that comes before the Foreign Relations Committee and the Senate furthers the national interest.

For the moment, we know only the outlines of such an agreement. What is certain is that after December 5, no legally binding treaty will exist that provides for onsite inspections.

My bill is not a substitute for a treaty, but without it, it is unclear how we can permit and by extension carry out any inspection activities. This might not appear troubling to some, but allowing a break in verification is not in the interests of the United States or Russia. Such a break could amplify suspicions or even complicate the conclusion of the START successor agreement.

I believe it is incumbent upon the United States and Russia to maintain mutual confidence and preserve a proven verification regime between December 5 and the entry into force of a new agreement. If we are to do so, the legal tools that are contained in the bill I have introduced are essential. There is nothing in my bill that requires the administration to admit Russian inspection teams in the absence of reciprocity by Moscow, nor does the bill expand verification beyond those already conducted under the START protocol. The authorities in the bill would terminate on June 5, 2010, or on the date of entry into force of a successor agreement to the START treaty.

We must ensure that needed verification tools will exist in the period between START's expiration and entry into force of a new treaty. I am hopeful that Congress will take action on S. 2727 in the near future and that both the Obama administration and the Russian Government will take steps to maintain inspection until ratification of a START successor agreement is completed.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

HEALTH CARE REFORM

Mr. JOHANNS. Mr. President, I stand today to highlight the tax hammer, as I would describe it, that is being brought down on the American people relative to the health care bills that are making their way to the floor of the Senate and literally are about to be debated on the House side.

In the Finance Committee bill, there are over $500 billion in additional taxes and fees and fines and penalties. In the House bill, there are over $750 billion in new taxes, et cetera. If you shrug your shoulders thinking: Well, that is a tax on those wealthy people; I don't have anything to worry about; I am not one of them—you are missing something. Actually, nothing could be further from the truth.

In my judgment, these taxes will stifle small business. They are going to shock families who think there is no way their modest income could possibly be taxed more by the Federal Government.

The House bill, let me start there. The first tax is a 5.4-percent surtax on what are referred to as the high-income earners. It raises taxes by about $460 billion. This is a gigantic tax increase. But supporters of it make the case that, again, this is the rich people, creating the feeling that somehow you don't have to worry about that if you are not making a lot of money. But what they don't want to acknowledge is that this is a tax on business and small businesses. In fact, I would suggest if you wanted to be fair in this debate, you wouldn't call it the millionaire tax; you would call it by the proper name—the small business tax.

The Joint Committee on Taxation released a letter yesterday. It found that one-third of the tax—one-third of the tax—will be from business income. The Wall Street Journal has said this recently, and I am quoting:

> The burden will mostly fall on small businesses that have organized as Subchapter S or limited liability corporations, since the truly wealthy won't have any difficulty sheltering their incomes.

In the United States, there are over 6 million small businesses. Last count, the last available information I could get my hands on, there were over 41,000 small employers in my home State of Nebraska. I have walked through many of these small businesses. I have visited with the people who are trying to keep these businesses going, and they are facing challenges to make the payroll.

Many of these small businesses exist in small communities in my State, and their employees are not just faceless people, people without names. These are people with whom they went to high school. These are people with whom they worship on Sunday, they see at the grocery store. Our small businesses don't want to lay off these people.

Now, what would a 5.4-percent tax do to their bottom line, to their employees, to any potential of hiring in the future, to the communities they support? Well, one can see the impact it will have.

Shawne McGibbon, a former Small Business Administration official, said it very well and, again, I am quoting:

> Nebraska depends on small businesses for jobs and economic growth. During this time of financial stress and economic instability, policymakers need to remember that the State's small businesses provide the economic base for families and communities.

Maybe to some from big cities or States that are mostly urban, the loss of 50 jobs is not a big deal. I can tell my colleagues it is a big deal to me. It is a big deal to my State. Fifty jobs in a community of 1,000 people is absolutely devastating. Those paychecks no longer spent on Main Street can literally bring Main Street to its knees.

Making matters worse, this tax is not indexed for inflation, so what can we predict? What is the most certain thing we can predict about this tax? It is going to have the AMT problem all over again. Each year it is going to creep down, every year capturing more and more people in the middle class.

The second tax I wish to talk about today is the 8-percent penalty on employers who don't offer insurance. Eight percent of their payroll or pay, at least 72.5 percent of workers' premiums, that is what they are faced with. Again, no matter how one sugarcoats it, this is going to cut into wages. For those who pay the 8 percent, that is going to total $135 billion more in taxes taken out of our economy.

The Wall Street Journal, again, I think said it very well recently:

> Such ''play or pay'' taxes always become ''pay or pay'' and will rise over time, with severe consequences for hiring, job creation, and ultimately growth.

I look over there at the House and they sure seem very determined to throttle the backbone of our economy—our small businesses. I will just tell them as somebody who has represented my great State as a Governor and now as a Senator: You take those jobs out of small communities and you will bring those small communities to their knees.

I pay attention to the wisdom conveyed back home. That is why we do our townhall meetings and we walk in parades and we do everything we can to listen to the people.

A constituent from Pierce, NE, a small community, a great community in our State, said it very well:

> With my husband self-employed, around 30 percent of our income is required to pay income taxes. If these income taxes weren't so high, we would be able to afford and choose our own insurance coverage. More taxes for public health care is not the answer.

I wish to reference the Senate bill and a third tax—the penalty tax on individuals without insurance. It provides that if you don't have a government-approved health plan, you will pay a penalty of $750 for singles and $1,500 for married couples. The Congressional Budget Office has analyzed this penalty. Almost half of those paying the penalty tax would be between 100 and 300 percent of the poverty level. In some States, these good folks qualify for government assistance programs. So we are going to tax them or penalize them and then give them subsidies. Boy, only here could somebody make an argument that is rational. It makes no sense to the people back home.

Listen to this: A family of four earning between $23,000 and $68,000 in 2013 would be saddled with the new tax. We are literally talking about taxing not just the middle class but even below that level.

I remember a pledge being made. Last year, President Obama said:

> No one making less than $250,000 a year will see any form of tax increase.

Yet a family of four earning $25,000 will be hit with a tax within a few years. Boy, that is a long way away—$25,000 from $250,000.

Nebraskans believe they can make better decisions about their own health care than the Federal Government. Let me repeat that. Nebraskans believe they can make better decisions about their own health care for themselves and their families than can the Federal Government. I stand here today to tell my colleagues I agree with them.

A constituent from Kearney, NE, said:

> Is there anything I can do to take a stand against what I consider a huge tax burden and a loss of freedoms?

The individual mandate—just one more example of government intrusion into people's lives.

I have covered three of the tax hikes pervasive in the bills, but it is the tip of the iceberg. There are new taxes, penalties, and fees as far as the eye can see.

There is a very fitting quote from John Marshall. He said: ''The power to tax is the power to destroy.'' The power to tax is the power to destroy.

As the health care debate continues, all of us should remember Chief Justice Marshall's wise words. Make no mistake about it. These various bills raise taxes and put burdens upon the American people at a breathtaking pace. Don't be fooled that this is all about taxing the rich people and the millionaires. This is really about taxing and taking from the American people, and Americans are seeing the truth.

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

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. There is 14½ minutes remaining.

Mr. ALEXANDER. Thank you, Mr. President. Will you let me know when 3 minutes remain?

The PRESIDING OFFICER. The Chair will so notify.

Mr. ALEXANDER. I thank the President.

Mr. President, we have a lot of unusual things happening in the Senate, the Congress, and the world today, but apparently we are about to be presented with a rare opportunity that very few Senators ever have a chance to vote on. The Democratic congressional health care bill will present Senators—it is still being written from behind closed doors, but from what we can tell from the other bills—with an opportunity to vote for one-half trillion dollars in Medicare cuts and $900 billion-plus in new taxes at the same time. It is very rare that any Senator has a chance to vote for Medicare cuts that big and new taxes that big all at once.

It is not an opportunity that many, if any, Republicans will take advantage of, but that is the proposal that is coming. It caused my colleague from Tennessee to say on the Senate floor yesterday that if Republicans were to propose the same thing—a one-half trillion dollars cut in Medicare, a 60-percent increase in premium costs, which is the estimated increase to Tennesseans who have insurance premiums, according to Senator CORKER, plus taxes of $900 billion when fully implemented, it wouldn't get a single Democratic vote. I think Senator CORKER is probably right about that.

Whenever we say this, this brings a deep concern from the other side of the aisle. The Senator from Ohio came to the Senate floor and engaged in a colloquy with the assistant Democratic leader yesterday after I left the floor and said:

> Imagine this, the Republican Senator from Tennessee is saying that Democrats are about to cut Medicare. Why would they say that? It makes me incredulous to hear the Senator say that Democrats are going to cut Medicare and we are going to use Medicare cuts to pay for health care reform.

The only reason we and everybody else who reads their bill is saying that is because it is true. The proposal is to cut grandma's Medicare and spend it on their proposal, to cut nearly one-half trillion dollars in Medicare spending and not spend it on making Medicare solvent.

We know the Medicare trustees have said the program is going to go broke in 2015 to 2017, yet we are going to spend that money on a new government program into which many Americans who now have employer-based insurance will find their way. It is not Republicans who are scaring seniors about Medicare cuts; it is the Democratic health care bills that are scaring seniors about Medicare cuts. They have a right to be concerned.

Just in case anybody who might be listening thinks we are making this up on the Republican side of the aisle, I brought with me a few articles from reputable sources that describe the Democratic health care proposals and their proposed Medicare cuts.

Here is the New York Times on September 24, an article by Robert Pear, who writes about this subject regularly. It says:

> To help offset the cost of covering the uninsured, the Senate and House bills would squeeze roughly $400 billion to $500 billion out of the projected growth in Medicare over 10 years.

That is the New York Times, Mr. President.

From the sanfranciscogate.com, this is an Associated Press article of September 22:

> Congress' chief budget officer on Tuesday contradicted President Obama's oft-stated claim that seniors wouldn't see their Medicare benefits cut under a health care overhaul.
>
> The head of the nonpartisan Congressional Budget Office, Douglas Elmendorf, told senators that seniors in Medicare's managed care plans could see reduced benefits under a bill in the Finance Committee.
>
> The bill would cut payment to Medicare Advantage plans by more than $100 billion over 10 years.
>
> Elmendorf said the changes ''would reduce the extra benefits that would be made available to beneficiaries through Medicare Advantage plans.''

Then there is the CBO, which in its October 7 letter to Senator BAUCUS talked about in detail the proposed Medicare cuts. Then there is the Associated Press article of July 30, 2009, which says:

> Democrats are pushing for Medicare cuts on a scale not seen in years to underwrite health care for all. Many seniors now covered under the program don't like that one bit.

That is not the Republican National Committee. That is the Associated Press reporting on what the bills say. It also says:

> The House bill—the congressional proposal that has advanced the most—would reduce projected increases in Medicare payments to providers by more than $500 billion over 10 years, a gross cut of about 7 percent over the period. But the legislation would also plow nearly $300 billion back into the program, mainly to sweeten payments to doctors.
>
> That still leaves a net cut of more than $200 billion—

Says the Associated Press, describing the Democratic health care plan—

> which would be used to offset new Federal subsidies for workers and their families now lacking health insurance.

In other words, we are taking money from Medicare and spending it on someone else.

The Senator from Kansas said it is like writing a check on an overdrawn bank account to buy a big new car. That is a pretty good description.

I have a couple more. This is the Los Angeles Times, which is not a Republican publication. The headline on June 14 was, ''Obama to Outline $313 Billion in Medicare, Medicaid Spending Cuts.''

That is what Democratic Senators have always called such proposals, that is what the Los Angeles Times calls the proposals, and that is what we call it because that is what they are. The article says:

Reporting from Washington—Under pressure to pay for his ambitious reshaping of the nation's healthcare system, President Obama today will outline $313 billion in Medicare and Medicaid spending cuts over the next decade to help cover the cost of expanding coverage to tens of millions of America's insured.

This is from an October 22 NPR report:

Over a decade, the committee would cut $117 billion from the Medicare Advantage plans.

This is from an article in the Washington Post on October 23:

$500 billion in cuts to Medicare over the next decade.

That is the Washington Post.

This is the Wall Street Journal on September 8:

Other sources of funding for the Finance Committee plan include cuts to Medicare.

Mr. President, the question is not whether there are going to be cuts to Medicare; that is the proposal. Maybe it is a good idea; maybe it is a bad idea. But we don't need to come to the Senate floor and say that something that is, is not.

The proposal in these large expansive health care plans—the 2,000-page bill coming from the House soon—is that it is basically half financed by cuts in Medicare—not to make the program solvent—a program which has $37 trillion in unfunded liabilities over the next 75 years—but to spend it on a new government program. Those are the facts. That is why it is important that the American people have an opportunity to read the bill and know what it costs and know how it affects them.

The Republican leader and Senator JOHANNS have talked about taxes in the bill. Rarely does a Senator have an opportunity to vote on so many Medicare cuts and so many new taxes, as we apparently will have when this bill comes to us.

The taxes include a tax on individuals who don't buy government-approved health insurance. The Joint Committee on Taxation, our joint committee, and the CBO estimate that at least 71 percent of that penalty, that tax, will hit people earning less than $250,000. So it is not just taxes on rich people. When you impose, as the Senate Finance Committee bill would, $900 billion-plus in new taxes, when fully implemented, on a whole variety of people and businesses that provide health care, what do they do?

According to the Director of the CBO, most of those taxes are passed on to the consumers. Who are the consumers? The people who are paying health care premiums—250 million Americans. What does that mean? That would mean that instead of reducing the cost of your health care premium, we are more likely to increase it.

I ask, Why are we passing a health care reform bill that increases the cost of your health care premiums, raises your taxes, and cuts Medicare to help pay for that? There are increased taxes on health care providers, manufacturers and importers of brand-named drugs, medical device manufacturers—these will all be passed on to consumers, according to the Joint Committee on Taxation and CBO. The Finance proposal raises the threshold for deducting catastrophic medical expenses, but eighty-seven percent of the 5.1 million taxpayers who claim this deduction earn less than $100,000 a year. They are not millionaires. They earn less than $100,000 a year. In fact, data from the Joint Committee on Taxation and the former Director of the CBO shows, by 2019, 89 percent of the taxes—these new taxes—will be paid by taxpayers earning less than $200,000 a year.

The 2,000-page proposal from the House of Representatives would raise taxes by $729 million. There is a tax on millionaires, but we know what happens to that when it is not indexed. Forty years ago, we were worried about 155 high-income Americans who were avoiding taxes, so the Congress passed the millionaires tax—the alternative minimum tax. Today, if we hadn't patched it, as we say, in 2009, that tax would have raised taxes on 28.3 million Americans. The millionaires tax will hit you if you keep earning money.

I have said quite a bit about Medicare cuts and taxes. I want to conclude my remarks by quickly saying what Republicans think should be done. We believe the American people do not want this 2,000-page bill that is headed our way. We want, instead, to start over in the right direction, which means reducing costs and re-earning the trust of the American people by reducing the cost of health care step by step.

Specifically, we would start with the small business health care plans. That is just 88 pages that would lower premiums, according to the CBO. It could cover up to 1 million new small business employees, and it would reduce spending on Medicaid. Then we could take a step to encourage competition by allowing people to buy health insurance across State lines, and we can take measures to stop junk lawsuits against doctors.

More health information technology could be a bipartisan proposal. We can have more health exchanges. The number of pages are very small. Waste, fraud, and abuse are out of control—$1 out of every $10 spent in Medicaid. Our proposal would offer a choice—a couple hundred pages, not 2,000—reducing premiums and debt and making Medicare solvent instead of cutting it, with no tax increases instead of higher taxes, and reducing costs.

That is the kind of health care plan Republicans have offered and the kind we believe Americans will want. We hope over time that will earn bipartisan support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, how much time is remaining on both sides for morning business?

The PRESIDING OFFICER. The majority has 2½ minutes of morning business. The minority's time has expired.

HEALTH CARE

Ms. MIKULSKI. Mr. President, I would like to speak on health care. I note with interest the remarks of the Senator from Tennessee. I think there is former bipartisan agreement, but everybody says let's go through this step by step. The Congress has had an extensive health care debate. We in the HELP Committee have had extensive hearings, and we had a markup of our bill that lasted more than 3 weeks and had over 350 amendments, of which 75 percent were offered by the other side. We offered many of those amendments. When all was said and done, they voted no. So we don't know when good would be good enough. It is one thing to disagree on policy; it is another thing to want to do a filibuster by proxy, which is what we encountered in the committees with the increased volume of amendments.

We need health care reform, and we need it now. We need it in a way that accomplishes the goal of saving lives, improving lives and, at the same time, controlling costs.

No. 1, I think we all agree, we need to save and stabilize Medicare. The other thing we need to do is end the punitive practices of insurance companies.

I am going to tell you a bone-chilling story. I held a hearing in the HELP Committee on how health insurance in the private sector treats women. First, we pay more and get less benefits. But also what happened and what emerged is that a woman who applied for health care who had a C-section was denied by a Minnesota company unless she got a sterilization.

Did you hear what I said? An insurance company told an American woman, to get health insurance, she had to have a sterilization. Is this fascist China, fascist Germany? Is this Communist China? This is the United States of America. We were outraged.

I have been in touch with this insurance company. I got lipservice promises, blow-off letters from their lawyers, and stuff like that. I am ready with an amendment on the floor. We have to get rid of these punitive practices of denying health care on the basis of a previous condition. And then, not only doing that because of a C-section, but then to engage in a coercive way to force a sterilization.

So you think I want reform? You better believe I do. And I think I speak for the majority of the country who feels this way and the good men, such as the Presiding Officer, who will support us on it. I will have an amendment to deal with this if the insurance company continues to blow me off.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

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

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the committee-reported substitute to H.R. 2847 is agreed to, and the motion to reconsider that vote is agreed to.

Under the previous order, there will be 40 minutes of debate equally divided and controlled as follows: 20 minutes under the control of the Senator from Louisiana and 20 minutes total under the control of the Senator from Maryland, Ms. MIKULSKI, and the Senator from Alabama, Mr. SHELBY.

Ms. MIKULSKI. Mr. President, very shortly, we will vote on cloture on the CJS bill. As the chairperson of the committee, I wish to say that we want to finish this today so we can move forward with the blessing and the business of funding—Mr. President, I have to yield the floor a moment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, reclaiming my time as the manager of the bill, I wish to bring to my colleagues' attention that at 12:25 p.m. today, we are going to vote on cloture of the Commerce-Justice-Science appropriations bill. We wish to finish this bill today. When I say ''we,'' I mean Senator SHELBY, my ranking member, and myself.

This bill is the result of a rigorous bipartisan effort to fund the Department of Justice, including the FBI and DEA, the Commerce Department, and major science agencies that propel our country in the area of innovation and technology development, such as the National Science Foundation and the National Space Agency.

We want the Senate to be able to deal with this and then move on to other business.

After the cloture vote, it is our intention to dispose of any pending amendments that are germane to the bill. This bill has been public since June. It has been on the floor already for 4 days and over 20 hours. Senators have had ample time to draft and call up their amendments. Senator SHELBY and I hope to be able to move through the amendments in a well-paced but brisk fashion.

We hope our colleagues will cooperate and have any decisions relating to the funding of these important agencies be decided on robust debate and the merits of the argument rather than delay and dither, delay and dither, delay-and-dither tactics of the other side. We don't want to delay. We don't want to dither. We want to proceed, debate germane amendments, and bring our bill to a prompt closure.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 2847, that it be in order for me to offer amendment No. 2676, which is filed at the desk.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. I object, Mr. President. The intention is to vote on cloture and dispose of pending germane amendments. The Senator's amendment is not pending, so I do object, with all courtesy because of my respect for the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAMBLISS. Mr. President, I obviously am very disappointed to see my colleagues on the other side of the aisle object to my amendment. It is a pretty simple, straightforward amendment.

We have voted several different times when appropriations bills have been on the Senate floor over the last couple of weeks, wherein the folks on the other side of the aisle insist on allowing the transfer of prisoners from Guantanamo Bay to the United States for trial. My amendment prohibits that. I simply think it is not appropriate to bring battlefield combatants into article III trials inside the United States for any number of procedural reasons relative to the treatment of Guantanamo Bay prisoners within our Federal courts. But even beyond that, the potential for the release of those enemy combatants, once they arrive on U.S. soil, certainly is increased.

This is not the way we need to be treating enemy combatants. Those men who are at Gitmo are the meanest, nastiest killers in the world. Every single one of them wakes up every day thinking of ways they can kill and harm Americans, both our soldiers as well as individuals. Some of them were involved in the planning and the carrying out of the September 11 attacks. Others were arrested on the battlefield in Iraq and are at Guantanamo. We are not equipped nor have we ever in our history dealt with trials in article III courts of any enemy combatant arrested on the battlefield. The FBI has not investigated cases prior to arrest. These folks were not given Miranda warnings because our soldiers captured these individuals with AK–47s in their hands with which they were shooting at our men. These are not the types of individuals that our criminal courts are designed to handle or can feasibly handle.

I am disappointed we are not going to get a vote on this amendment. I will continue to raise this issue as long as we possibly can between now and the time that Guantanamo Bay is scheduled to be closed and, from a practical standpoint, until it is closed, if that ever does happen. We have the courts at Guantanamo Bay equipped to handle and try these individuals before military tribunals. Those tribunals have been established, just reauthorized. We are capable of handling the trials at Guantanamo Bay, and that is where they should take place.

I want to make sure the time I utilized is charged against Senator VITTER, which has been agreed to by the Senator.

The PRESIDING OFFICER. It will be so charged.

The Senator from South Carolina.

Mr. DEMINT. Mr. President, I appreciate the Senator from Georgia attempting to get a very important amendment on the floor. I wish to also propound a unanimous-consent request for a related amendment, related to the terrorists in Guantanamo Bay.

This week, I was advised by the officials at the Air Force and Navy base in Charleston——

Ms. MIKULSKI. Will the Senator yield for a question?

Mr. DEMINT. I will in a second.

Yes, I will yield.

Ms. MIKULSKI. Is the Senator offering an amendment or giving a speech about the desire to offer an amendment?

Mr. DEMINT. Mr. President, I desire to offer an amendment, and I will propound a unanimous-consent request to allow my amendment to be considered postcloture. I have a request. I will get to the request in a moment. I wish to give a few seconds of background.

We know this is not an idle threat because inquiries have been made in Charleston for moving detainees from Guantanamo Bay to minimum security brigs in Charleston.

I ask unanimous consent that when the Senate resumes consideration of H.R. 2847, it be in order for me to offer an amendment preventing the transfer of known terrorists at Guantanamo to U.S. soil.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Mr. President, I object to the amendment. The intention is to vote on cloture and dispose of pending germane amendments. The Senator's amendment is not pending, so I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, this amendment has been filed as a second degree. It makes no sense at this point for us to not have a short debate about moving the most dangerous people in the world to American soil. It is appropriate for us to allow at least a small amount of time, as we rush these bills through, to talk about the issues that are important to Americans.

I am obviously disappointed that we will not allow the discussion of my amendment or the amendment of the Senator from Georgia or others who are trying to get this issue in front of

this body for discussion. It does not mean you cannot vote it down. But not to allow a debate is certainly discouraging at this point.

I appreciate Senator VITTER giving us a few minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Louisiana.

AMENDMENT NO. 2644

Mr. VITTER. Mr. President, I rise again in strong support of my amendment No. 2644 to the Commerce-Justice-Science appropriations bill. It is coauthored by the distinguished Senator BENNETT from Utah, and it is strongly supported by many other Members.

There has been a lot said about this amendment, most of it inaccurate, so let me step back and start with what the amendment says. It is pretty simple, pretty straightforward when you actually read it.

The amendment simply requires the census that we are set to take next year to ask whether the respondent is a citizen. The amendment does not do anything but that. It simply says: The census should ask folks if they are citizens. It is very straightforward.

We should count every person in the United States. The census should include everyone, but in so doing, I am encouraging, and my amendment would require, that the census ask if an individual is a citizen.

Compared to that statement of policy, that simple goal, it is absolutely mind-boggling to me some of the statements that have been made about it. First, the distinguished majority leader Senator REID admitted in several conference calls and statements to the press that he is trying to invoke cloture on this bill specifically to block out any vote, any discussion of the Vitter amendment.

Secondly, in saying that, the majority leader called my amendment ''anti-immigrant.'' I honestly don't see how any reasonable person can say that when we take a census and we simply ask whether the respondent is a citizen or a noncitizen—and plenty of noncitizens are here legally—that is anti-immigrant.

Third, and perhaps most outrageously, Senator REID said my effort is akin to the activities in the 1950s and 1960s to intimidate Black citizens and try to get them to stay away from voting in the voting booth. I take personal offense to that. I think there is no reasonable comparison, and I ask Senator REID to apologize to me for that outrageous statement on the Senate floor.

As I said, what the amendment does is simple. It says that the census should ask whether a respondent is a citizen or not. Why is that important? Well, for at least two reasons. First of all, the census is an enormously important tool we in Congress are supposed to use—information and statistics—as we tackle any number of significant issues and Federal programs. Certainly it is a very significant and important issue that we deal with the immigration problem and the issue of illegal immigration. And certainly it is useful to know, if we are going to spend $14 billion to do a census, who within that number are citizens and who within that number are noncitizens.

Secondly, and even more important, the top thing the census is used for, the first thing the census is used for is to reapportion the U.S. House of Representatives, to determine after each census is done how many U.S. House Members each State gets. The current plan is to count everybody and not ask whether a person is a citizen or a noncitizen. So the current plan is to reapportion House seats using that overall number—using both citizens and noncitizens in the mix. I think that is wrong. I think that is contrary to the whole intent of the Constitution and the establishment of Congress as a democratic institution to represent citizens. I believe only citizens should be in that particular calculation for the reapportionment of the U.S. House of Representatives.

This is a significant issue for many States, including my State of Louisiana. It has a very big and direct and concrete impact on Louisiana and certain other States. It comes down to this: If the census is done next year and reapportionment happens using everybody—citizens and noncitizens—Louisiana is going to lose a seat in the U.S. House of Representatives. We will lose one-seventh of our standing there, our representation there, our clout. If the census was done and only the number of citizens was used to determine reapportionment, Louisiana would not lose that House seat. We would retain seven seats. So that has a very big and direct impact on my State of Louisiana.

I would also point out that it will have the same impact in seven other States: North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, and Indiana—excuse me, eight other States. So a total of nine States are in this position, Louisiana being one of them. So it is a very significant issue that directly impacts many citizens and many States.

So I urge all of my colleagues to support getting a vote on the Vitter amendment by denying cloture on the Commerce-Justice-Science appropriations bill. However you may vote, this is an important issue, and however you may vote, we need a full debate and a vote. In particular, I would urge my colleagues from North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, Indiana, and, of course, Louisiana to vote no on cloture so we can examine this very significant issue and so we can have a vote on the Vitter-Bennett amendment.

There has been discussion in at least two areas that I wish to quickly address. One is some discussion in the press, including from my distinguished colleague from Louisiana, Senator LANDRIEU, who has indicated that what I just laid out in terms of the impact on reapportionment isn't true. Well, I think every expert who has looked at this, every demographer who has looked at this agrees with what I just said, that this factor is the difference between Louisiana losing a House seat or not and these other States losing a House seat or not.

I would point out three experts, but there are many others. Dr. Elliott Stonecipher, demographer from Louisiana, has been leading the charge on this issue. I compliment him for his tenacity and his hard work. But there are others as well. In an October 27, 2009, New York Times article, my numbers were again confirmed by Andrew Beverage, professor of sociology at Queens College, New York. He did an independent analysis and said exactly the same thing, that, yes, this issue of whether we use citizens and noncitizens in reapportionment does make that huge difference for those States. And last week, my analysis and my numbers were confirmed yet again by an independent and well-respected demographic expert—again in my State of Louisiana—Greg Rigamer with GCR and Associates. And that is very significant.

Secondly, I wish to briefly address this cost issue. It is interesting that in this debate, the other side has been flailing around for an argument against my amendment, though nobody has argued—or nobody whom I have heard—that reapportionment should be done counting citizens and noncitizens, and that is more consistent with the notion of Congress being the representative body of citizens of the United States. So folks on the other side are wildly flailing around for some argument, and the one they have come across is cost: Oh my goodness, the census would have to incur additional cost to add this to the form.

Well, it is certainly true that it would cost some more. I can't give you a precise dollar figure, but it would cost something more. It is certainly true it would have been better for this to have been caught and debated earlier rather than later. Unfortunately, the committee of jurisdiction, the Committee on Homeland Security and Governmental Affairs, which reviews the census forms, did not bring this issue up in a significant way. I agree with that. I don't agree with this wild figure that it would cost $1 billion.

Let me point out a couple of things. First of all, the cost of the census has ballooned from the last census. The last census was $3.4 billion; this census is going to be $14 billion. So the first thing I would say, quite honestly, is that it is pretty ironic for an agency that has had a budget balloon from $3.4 billion in the last census to $14 billion this census to say they can't squeeze in that question, that they can't do it right for $14 billion.

Secondly, quite frankly, the Census Bureau has a horrendous record in terms of cost estimates. When they threw out this very large, very round figure of it costing an additional $1 billion, I called them and said: OK, can you give us the rationale for that, the background on that cost estimate? After 3 weeks of asking for the data behind that $1 billion claim, they sent us one piece of paper with 10 bullet points on it, all very general statements and suggestions, with a final bottom line being a nice even round figure of $1 billion—very unimpressive, in my opinion, in terms of any precise accounting for $1 billion.

I would also draw everyone's attention to an October 7, 2009, GAO report delivered to the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security. It was about the census. In that report, the GAO said:

> Given the Bureau's past difficulties in developing credible and accurate cost estimates, we are concerned about the reliability of the figures that were used to support the 2010 budget.

In another example, the Office of the Inspector General filed a report in 2008 about the census. In that report, the office inspected a particular cost estimate from the Census Bureau that came up to $494 million for a certain portion of their activity, and they said: We think this is a wildly inflated figure, and we can immediately identify cost savings that bring it down to $348 million—a significant savings of almost $150 million. When the Census Bureau was confronted with that, they had to agree and they had to adopt the lower figure.

So, Mr. President, the bottom line is simple: We do a census every 10 years. It is a very important event. We need to do it right, and to do it right, we need a full debate and a vote on this central question embodied by the Vitter-Bennett amendment. So I urge all of my colleagues to vote no on cloture of the Commerce-Justice-Science appropriations bill to demand a reasonable debate and vote on the Vitter-Bennett amendment. This is an important question, and we simply shouldn't forge ahead. Americans have a fundamental problem with not even asking the citizenship question and therefore forging ahead with a plan to reapportion the entire U.S. House of Representatives by putting noncitizens in the mix, when the whole notion of our representative democracy and of Congress is to represent the citizens of the country.

I urge my colleagues to support that position, and I thank my colleagues who have done so thus so far. In particular, I urge my colleagues from North Carolina, South Carolina, Oregon, Pennsylvania, Mississippi, Michigan, Iowa, Indiana, and certainly Louisiana to stand up for their States, to stand up for their interests, to stand up for their clout and their representation in the U.S. House of Representatives.

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

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I object to the Senator's amendment, and I object to the arguments he has made.

First of all, we adopt cloture so that we can proceed on amendments that are germane. Second, in terms of the inaccurate accusation that we are plowing ahead and forging forward, we were on this bill for 4 days, with over 20 hours of debate. There was plenty of time to talk about this amendment, and I was here and ready to engage.

The other thing is that there have been other times—since my bill was pulled from the floor—called morning business, when a Senator could talk for any length of time on any topic he or she wants. Yet silence, silence, silence. So don't use the cloture vote as a way to say there wasn't enough time.

Now let's go to being asleep at the switch. Two accusations were made—the ballooning of the census cost. Well, one of the reasons and the main reason the cost is exploding is that the party in power prior to 2008 was asleep at the switch with the census. They completely dropped the ball on the new technology for being able to go door to door to get a count. It turned into a big techno-boondoggle. It finally took the Secretary of Commerce to uncover that under that rock was another rock, and under that rock were a lot of buckets of malfunctioning microchips. So we had to bail out Secretary Gutierrez and the census because of the techno-boondoggle because the other party was asleep at the switch in maintaining strict quality controls.

Now let's go to the asking of another question. The Senator from Louisiana says he wants to stand up for his State. I agree, we have to stand up for the States, but the time to stand up was in April of 2007. Did you know that the Census is mandated by law to submit the questionnaires to Congress—and they did? So for 1 year, from April 1, 2007, to the close of the review by Congress 1 year later, April 2008, there was plenty of time to say: We don't like the questionnaire; we want to add a citizenship question. That was the time and the place. When you are going to stand up for your State, stand up at the right time to make a difference and not try to amend the law in a way that is going to create administrative havoc.

We can debate the merits of the question, but I am here as an appropriator on the process. The Census Bureau did meet its statutory responsibility. It submitted the questionnaire to the Congress on April 1, 2007. It did not come by stealth in the night, it was not written in invisible ink, it was written in English here for all to see—and also in other languages we could test and use—to say: Do you, Congress, like this questionnaire? Do you have any comments? For all those who want to stand up, that was the time to do it and the time to make a change.

Let's talk about the consequences. It will delay the census so we could essentially not meet our constitutional mandate of having the census done in a timely way. No. 2, it will cost, if we did not do it, another $1 billion and wreak, again, administrative havoc.

Let's go into this whole claim about citizens and noncitizens. The census already tracks the number of citizens and noncitzens through a separate survey. We could talk about what this will mean in reapportionment and so on. Those questions are for debates that lie with the Judiciary Committee.

We are not going to vote up or down on the Vitter amendment, we are going to vote on cloture. Why is cloture important? So we do not have distracting amendments that are better offered on the appropriate substance of the bill. We have to fund the State, Commerce, Justice, Science agencies. The FBI needs us to fund this agency. The Marshals Service needs us to fund this agency. Federal law enforcement, our Federal prisons—you might not like whom the Obama administration puts in Federal prisons, but we need Federal prisons. So we need to pass cloture so we can dispose of germane amendments and move democracy forward.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Maryland has 7½ minutes remaining.

Ms. MIKULSKI. I wish to reserve my time. Did the Senator from Kansas have a question?

Mr. ROBERTS. I would be delighted to respond to my good friend from Maryland. I am in a position to yield back all the minority's time. We have no more speakers.

Ms. MIKULSKI. Mr. President, we are not prepared to yield back any time. I reserve the remainder of my time.

Mr. ROBERTS. Will the distinguished Senator yield?

Ms. MIKULSKI. Certainly.

Mr. ROBERTS. Today, the U.S. Marine Corps is celebrating its birthday. As I speak, the Commandant of the Marine Corps, the Drum and Bugle Corps and various and assorted marines are over in the Russell Building. I am to cut the cake, and I am getting into deeper and deeper trouble if we delay the ceremonies to the degree they could be delayed. If somebody wants to talk, obviously, you have 7 minutes, but I appreciate any consideration you might be able to give us.

Ms. MIKULSKI. That is one heck of an argument, I respond to the Senator from Kansas. I have great admiration for the Marine Corps. If the Semper Fi guys call and you need to cut the cake, I will certainly be willing to cooperate.

Seriously, our congratulations to the U.S. Marine Corps on their birthday. We value them for what they have done in their most recent conflicts and their incredible history. They are truly Semper Fi. In the spirit of what I hope will be the comity of the day, the civility of

the day, we yield back our time in order to permit the vote.

Mr. ROBERTS. I tell the Senator Semper Fi, and on behalf of the minority, I yield back all our time.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee-reported substitute amendment to H.R. 2847, the Departments of Commerce, Justice and Science and Related Agencies Appropriations Act of Fiscal Year 2010.

Harry Reid, Barbara A. Mikulski, Barbara Boxer, Robert Menendez, Charles E. Schumer, Patty Murray, Tom Harkin, Patrick J. Leahy, Roland W. Burris, Mark Begich, Ben Nelson, Daniel K. Inouye, Debbie Stabenow, Bernard Sanders, Dianne Feinstein, John F. Kerry, Edward E. Kaufman.

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

The question is, Is it the sense of the Senate that debate on the committee-reported substitute amendment to H.R. 2847, the Departments of Commerce, Justice, and Science, and Related Agencies Appropriations Act of 2010 shall be brought to a close?

The yeas are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 60, nays 39, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—60

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

NAYS—39

Alexander	Collins	Hatch
Barrasso	Corker	Hutchison
Bennett	Cornyn	Inhofe
Bond	Crapo	Isakson
Brownback	DeMint	Johanns
Bunning	Ensign	Kyl
Burr	Enzi	LeMieux
Chambliss	Graham	Lugar
Coburn	Grassley	McConnell
Cochran	Gregg	Murkowski
Risch	Shelby	Vitter
Roberts	Snowe	Voinovich
Sessions	Thune	Wicker

NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 39. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will report.

The legislative clerk read as follows:

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

Pending:

Vitter/Bennett amendment No. 2644, to provide that none of the funds made available in this act may be used for collection of census data that does not include a question regarding status of United States citizenship.

Johanns amendment No. 2393, prohibiting the use of funds to fund the Association of Community Organizations for Reform Now (ACORN).

Levin/Coburn amendment No. 2627, to ensure adequate resources for resolving thousands of offshore tax cases involving hidden accounts at offshore financial institutions.

Durbin modified amendment No. 2647, to require the Comptroller General to review and audit Federal funds received by ACORN.

Begich/Murkowski amendment No. 2646, to allow tribes located inside certain boroughs in Alaska to receive Federal funds for their activities.

Ensign modified amendment No. 2648, to provide additional funds for the State Criminal Alien Assistance Program by reducing corporate welfare programs.

Shelby/Feinstein amendment No. 2625, to provide danger pay to Federal agents stationed in dangerous foreign field offices.

Leahy amendment No. 2642, to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits.

Graham amendment No. 2669, to prohibit the use of funds for the prosecution in article III courts of the United States of individuals involved in the September 11, 2001, terrorist attacks.

Coburn amendment No. 2631, to redirect funding of the National Science Foundation toward practical scientific research.

Coburn amendment No. 2632, to require public disclosure of certain reports.

Coburn amendment No. 2667, to reduce waste and abuse at the Department of Commerce.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I ask for the regular order.

Mr. NELSON of Florida. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. NELSON of Florida. Mr. President, the Food and Drug Administration is proposing a rule that will basically eliminate raw oysters from the Gulf of Mexico. There have been 15 people in the past year who have died from a bacterial infection that comes out of raw oysters. But what has been discovered is that the people had a preexisting condition prior to eating the oysters that made their immune system wear down so they were much more susceptible. In a sweeping administrative executive branch decision trying to correct a problem, they are suddenly proposing that they are going to stop the rest of America eating raw oysters from the Gulf of Mexico. This is like saying: If you have a food allergy to peanuts, we are going to ban you eating peanuts unless you cook them.

There is a thriving industry along the coast of America, particularly the gulf coast, that has a delicacy known as raw oysters that people enjoy. Apalachicola oysters, the creme de la creme, are shipped all over the world. And in some of the fanciest restaurants you get Apalachicola oysters on the half shell. The Food and Drug Administration is about to basically ban raw oysters from the Gulf of Mexico. Some of us in the Senate are going to try not to let it happen.

Senator LANDRIEU and I, who both have some interest in this because it affects our States, are filing a bill today that would utilize the appropriations means of not letting an appropriation be enacted or used for the purpose of the FDA implementing such a rule that would basically ban raw oysters from the Gulf of Mexico. This is trying to kill a gnat with a sledgehammer. If people were, because of a preexisting condition, already subject to coming down with an illness, there is simply no sense. This is government run amok. This is government out of control. This is government trying to kill a gnat with a sledgehammer. We are not going to let it happen.

I inform the Senate today that we are filing this legislation.

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

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

Mr. FRANKEN. I ask unanimous consent to speak as in morning business for up to 5 minutes and that the time be charged postcloture.

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

(The remarks of Mr. FRANKEN pertaining to the introduction of S. 2734 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FRANKEN. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. 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. NELSON of Florida. Mr. President, I wish to be recognized as in morning business.

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

Mr. NELSON of Florida. Mr. President, it goes without saying that NASA, the National Aeronautics and Space Administration, is at a crossroads. It is an agency that has been starved of funds, so it finds itself in the position that its human-rated capable vehicle, the space shuttle, will be ceasing to fly after six more flights that will continue to build the space station and equip it.

This last flight will probably not be until the first quarter of 2011. But the crossroads NASA is facing is because it has been starved of funds over the course of the last half a dozen years, it will not have a new human-rated vehicle to take our crews to the International Space Station. As a matter of fact, there is a great deal of consternation and conflict within NASA itself as to what that vehicle should be. So the President, recognizing this earlier when he appointed the new NASA Administrator, GEN Charlie Bolden, set up a blue ribbon panel headed by Norman Augustine.

They have now reported, and the strong inference of their extensive and detailed report is that the vehicle that was planned to fly but was obviously going to be delayed because it hadn't been developed quickly enough, the Ares I—by the way, the same vehicle that had a very successful test flight a week ago—the strong inference of the Augustine Commission Report is that the Ares I would not even be ready to fly astronauts until the year 2017. Its sole purpose would be, according to the Augustine Commission Report, to get astronauts to and from the space station, and that would be, in the Augustine report's inference, too late. So they are recommending, or at least the strong inference of the recommendation in the Augustine report, is that commercial vehicles be developed to take cargo and crew to the International Space Station. The Augustine Commission Report is suggesting the space station certainly should be kept alive until the year 2020, but to now start to reap some of the science from the experiments that just now the space station is getting equipped to be able to do, in the nodule that is now designated as a national laboratory on the International Space Station.

If what I have said sounds confusing, indeed it is. That is why NASA is at a crossroads. NASA is even more at a crossroads because NASA can't do anything unless it gets some serious new additional money, and that is the strong recommendation of the Augustine Commission Report. What they are saying is that NASA should have $1 billion extra over the President's request in this fiscal year, the fiscal year that started October 1 known as fiscal year 2010, and that the next fiscal year it should have an additional $2 billion over the President's baseline recommendation in the budget, and that thereafter, for the decade, it should have an additional $3 billion per year to fill out the decade so that NASA can do what it does best.

What does it do best? It explores the unknown. It explores the heavens. What should that architecture be? I don't think our Senate committee can decide that. I don't think the White House can decide that, but the White House can give direction and our committee can give direction to NASA to go figure it out: Figure out what that architecture is to do what NASA does best, which is explore the heavens. That direction is certainly recommended in the Augustine Commission Report as: Get out of low Earth orbit. Expand out into the cosmos, with humans, to explore.

So what I am hoping the President of the United States, Barack Obama, is going to do, now that he has received the Augustine Commission Report—it is my hope, it is my plea to the President that he will take their recommendations seriously and that he will do three things. First, even in the midst of an economic recession, when the budgets are very constrained and tight, he will say that a part of America we are not going to give up is our role as explorers and that he will commit to recommend in his budgets the additional money as recommended by the Augustine Commission, and in this first year, this fiscal year we are in now, fiscal year 2010, that is a lot easier because you can get that additional $1 billion out of the unused money in the stimulus bill. But it gets tougher as we get on down the line. That is the first thing.

The second thing the President should say to his administrator of NASA, General Bolden, is convene the guys and determine the architecture of how we should go about and what is the mission we are going to explore. I can tell my colleagues that this Senator thinks the goal should be to go to Mars. It may not be to the surface of Mars; it may be first to Phobos, one of the moons of Mars; we would have to spend so much less energy in getting down to the surface of that moon because of the gravitational pull instead of going all the way to the surface of Mars. The science that we could gain from that would be extraordinary.

Therefore, the President's direction, I would hope, to NASA would be: Figure out the architecture. Does that mean we are going to take the Ares I and make it into an Ares V?

Is that going to be the heavy lift vehicle to get the hardware up to expand out into the cosmos, be it to Phobos, be it to an astroid, be it to the Moon? My hope is that the President would give that direction: Figure out that architecture and what are the steps along to the goal of getting to Mars. That would be the second thing.

The third thing I hope the President would do is give direction to NASA that since NASA is at this crossroads and since there is going to be disruption in the workforce because there is not another human-rated rocket ready after the space shuttle is shut down, then you have to help the workforce. You have to move work around among the NASA centers. You have to bring in new kinds of research and development, of which NASA is a good example of an R&D agency.

It is through the direction of those three things that I think we can get NASA out of this fix it finds itself in at this crossroads point. Give the direction, No. 1, for the additional funding that NASA needs; No. 2, direct NASA to produce that architecture for exploring the heavens; and No. 3, take care of the workforce in the meantime.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. 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. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

Mr. KAUFMAN. Mr. President, I rise today because I am deeply concerned that just over 1 year since the collapse of Lehman Brothers, a failure that helped send us to the brink of depression, Wall Street is essentially unchanged. Congress and the SEC have not enacted any reform, and the American people remain at risk of another financial debacle—not just because the same practices that led to the crisis 14 months ago are continuing but from new practices that are leading to new problems and new systemic risks.

Last year, the financial world almost came to an end. Yet most of Wall Street then believed that no government review or additional regulation was necessary—right up until the moment government had to step in and save it.

We had been assured that the system was sound. We were assured that a host of checks and balances were in place that would suffice. We were assured that companies have to report their financial holdings with full disclosure and transparency. We were assured that accountants have to verify those assets. We were assured that due diligence is conducted on every deal and transaction. We were assured that boards of directors have a fiduciary duty to undertake prudent risk management. We were sure that management wanted their companies to thrive

over the long term. Most important, we were assured that regulatory bodies and law enforcement agencies are in place to police the system. But those safeguards did not prevent the disaster.

In the past 10 years or more, one of the most important safeguards—the regulators—had simply given up on the importance of regulation. We believed and they believed that markets could police themselves, they would self-regulate, and so in effect we pulled the regulators off the field.

We now know the confluence of events that led to the disaster, and there is blame enough to go around. We failed to regulate the derivatives market. Government-backed agencies, such as Fannie Mae and Freddie Mac, pushed to make housing available for greater numbers of people; unscrupulous mortgage brokers pushed subprime mortgages at every opportunity; and investment bankers pooled and securitized those subprime mortgages by the trillions of dollars and sold them like hotcakes. Rating agencies, left unmonitored by the SEC, incredibly stamped these pools with AAA ratings.

The SEC, which changed the capital-to-leverage ratio level for investment banks from 30-and-50-to-1, allowed these banks to buy huge pools of these soon-to-be toxic assets, and investment banks wrote credit default swaps and then hedged those risks without any central clearinghouse, without any understanding of who was writing how much or what it all meant—all of this, incredible to believe, without any regulation or oversight.

This chart conveys that banks were involved in high-risk return investments that were largely unregulated. Then, crash—the housing bubble burst and a disaster of truly monumental proportions struck. Americans lost $20 trillion in housing and equity value during the ensuing financial meltdown. The economy lurched into free fall, and the GDP shrunk by a staggering percentage not seen since the 1950s.

What happened next? The American taxpayer, the deep-pocket lender of last resort, had to ride to the rescue. We can barely even count the trillions of dollars in taxpayer money that have gone into bailing out the banks, AIG, and a number of other financial institutions. That is not including the billions of taxpayer dollars we had to spend to stimulate the economy.

We must never let this happen again. Yet here we are 1 year later, with no immediate crisis at hand, and we are falling back into complacency. The credit default swap market remains unregulated. The credit rating agencies have not yet been reformed. The banks are back to their old habits—paying out billions of dollars in bonuses for employees who are still engaged in high-risk, high-reward practices.

What is the great lesson we should have learned from the financial disaster of 2008? When markets develop rapidly and change dramatically, when they are not regulated, and when they are not fully transparent, it can lead to financial disaster. That is what happened in the credit default swap market—rapid and dramatic change in the market, no regulation, and opaqueness, which equaled disaster. This must never happen again.

I look forward to working with my colleagues to regulate the derivatives markets, to ensure that credit default swaps are traded on an exchange or at least cleared through a central clearinghouse with appropriate safeguards enforced, and to enact meaningful financial regulatory reforms.

At the same time, we need to be looking carefully to see if these three deadly ingredients—rapid technological development, lack of transparency, and a lack of regulation—are appearing again in other markets. There is no question in my mind that in today's stock markets, those three disastrous ingredients do exist.

Due to rapid technological advances in computerized trading, stock markets have changed dramatically in recent years. They have become so highly fragmented that they are opaque—beyond the scope of effective surveillance—and our regulators have failed to keep pace.

The facts speak for themselves. We have gone from an era dominated by a duopoly of the New York Stock Exchange and Nasdaq to a highly fragmented market of more than 60 trading centers.

Dark pools, which allow confidential trading away from the public eye, have flourished, growing from 1.5 percent to 12 percent of market trades in under 5 years.

Competition for orders is intense and increasingly problematic. Flash orders, liquidity rebates, direct access granted to hedge funds by the exchanges, dark pools, indications of interest, and payment for order flow are each a consequence of these 60 centers all competing for market share.

Moreover, in just a few short years, high-frequency trading, which feeds everywhere on small price differences in the many fragmented trading venues, has skyrocketed from 30 percent to 70 percent of the daily volume.

Indeed, the chief executive of one of the country's biggest block trading dark pools was quoted 2 weeks ago as saying that the amount of money devoted to high-frequency trading could "quintuple between this year and next."

Let's put the last chart back up for a second. Again, we have learned that if you have rapid and dramatic change, opaqueness, and no effective regulation, which is exactly what exists in the high frequency trading markets, we have a disaster. We should look at this in terms of high-frequency trading. We have no effective regulation in these markets.

Last week, Rick Ketchum, the chairman and CEO of the Financial Industry Regulatory Authority—the self-regulatory body governing broker-dealers—gave a very thoughtful and candid speech, which I applaud. In it, Mr. Ketchum admitted that we have inadequate regulatory market surveillance.

His candor was refreshing but also ominous:

> There is much more to be done in the areas of front-running, manipulation, abusive short selling, and just having a better understanding of who is moving the markets and why.

Mr. Ketchum went on to say:

> [T]here are impediments to regulatory effectiveness that are not terribly well understood and potentially damaging to the integrity of the markets . . . The decline of the primary market concept, where there was a single price discovery market whose on-site regulator saw 90-plus percent of the trading activity, has obviously become a reality. In its place are now two or three or maybe four regulators all looking at an incomplete picture of the market—

And this is important—

> and knowing full well that this fractured approach does not work.

At the same time that we have no effective regulatory surveillance, we have also learned about potential manipulation by high-frequency traders.

Last week, the Senate Banking Subcommittee for Securities, Insurance, and Investment held a hearing on a wide range of important market structure issues. At the hearing, Mr. James Brigagliano, co-acting director of the Division of Trading and Markets, testified that the Commission intends to do a "deep dive" into high-frequency trading issues due to concerns that some high-frequency programs may enable possible front-running and manipulation.

Mr. Brigagliano's testimony about his concerns was troubling:

> . . . if there are traders taking position and then generating momentum through high frequency trading that would benefit those positions, that could be manipulation which would concern us. If there was momentum trading designed—or that actually exacerbated intra-day volatility—that might concern us because it could cause investors to get a worse price. And the other item I mentioned was if there were liquidity detection strategies that enabled high frequency traders to front-run pension funds and mutual funds, that also would concern us.

Reinforcing the case for quick action, several panelists acknowledged that it is a daily occurrence for dark pools to exclude certain possible high-frequency manipulators. For example, Robert Gasser, president and CEO of Investment Technology Group, asserted that surveillance is a "big challenge" and that improving market surveillance must be a regulatory priority.

He said:

> I can tell you that there are some frictional trades going on out there that clearly look as if they are testing the boundaries of liquidity provision versus market manipulation.

But none of the panelists, when asked, felt responsible to report any of their suspicions of manipulative activity to the SEC. That is up to the regulators and their surveillance to stop, they believe.

Finally, at the end of the hearing, Subcommittee Chairman REED asked about the reported arrest of a Goldman Sachs employee who allegedly had stolen code from Goldman used for their high-frequency trading programs.

A Federal prosecutor, arguing that the judge should set a high bail, said he had been told that with this software, there was the danger that a knowledgeable person could manipulate the markets in unfair ways.

The SEC has said it intends to issue a concept release to launch a study of high-frequency trading. According to news reports, this will happen next year. I do not believe next year is soon enough. We need the SEC to begin its study immediately. Where is the sense of urgency?

Our stock markets are also opaque. Again, I refer to Chairman Ketchum's speech:

> There are impediments to regulatory effectiveness that are not terribly well understood and potentially damaging to the integrity of the markets.

He went on to say:

> We need more information on the entities that move markets—the high frequency traders and hedge funds that are not registered. Right now, we are looking through a translucent veil, and only seeing the registered firms, and that gives us an incomplete—if not inaccurate—picture of the markets.

Senator SCHUMER echoed this theme at last week's hearing. He said:

> Market surveillance should be consolidated across all trading venues to eliminate the information gaps and coordination problems that make surveillance across all the markets virtually impossible today.

Let me repeat: '' . . . market surveillance across all the markets virtually impossible today.'' I totally agree with that, and none of the industry witnesses disagreed with Senator SCHUMER. That is why the SEC must not let months go by without taking meaningful action. We need the Commission to report now on what it should be doing sooner to discover and stop any such high-frequency manipulation.

Where is the sense of urgency?

We must also act urgently because high-frequency trading poses a systemic risk. Both industry experts and SEC Commissioners have recognized this threat. One industry expert has warned about high-frequency malfunctions:

> The next LongTerm Capital meltdown would happen—

And get this—

> in a five-minute time period . . .

''The next LongTerm Capital meltdown would happen in a five-minute time period.''

> At 1,000 shares per order and an average price of $20 per share, $2.4 billion of improper trades could be executed in [a] short timeframe.

This is a real problem. We have unregulated entities—hedge funds—using high-frequency trading programs, interacting directly with the exchanges.

As Chairman REED said at last week's hearing, nothing requires that these people even be located within the United States. Known as ''sponsored access,'' hedge funds use the name of a broker-dealer to gain direct trading access to the exchange but do not have to comply with any of the broker-dealer rules or risk checks.

SEC Commissioner Elisse Walter has recognized this threat:

> [Sponsored access] presents a variety of unique risks and concerns, particularly when trading firms have unfiltered access to the markets. These risks could affect several market participants and potentially threaten the stability of the markets.

Let me repeat that:

> These risks could affect several marketing participants and potentially threaten the stability of the markets.

This is from a member of the SEC. Even those on Wall Street responsible for overseeing their firms' high-frequency programs are not up to speed on the risks involved, according to a recent study conducted by 7city Learning. In a survey of quantitative analysts who design and implement high-frequency trading algorithms, two-thirds asserted their supervisors ''do not understand the work they do.''

And though the quants and risk managers played a central role exacerbating last year's financial crisis, 86 percent of those surveyed indicated their supervisor's ''level of understanding of the job of a quant is the same or worse than it was a year ago,'' and 70 percent said the same thing about their institutions as a whole.

I agree with the market expert and 7city director Paul Wilmott who said:

> These numbers are alarming. They indicate that even with the events of the past year, financial institutions are still not taking the importance of financial education seriously.

Let me repeat that.

> . . . They indicate that even with the events of the past year, financial institutions are still not taking the importance of financial education seriously.

Where is the urgency? Time is of the essence. We must act now.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 339 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. SPECTER. I thank the Chair, and I yield the floor.

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

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

The bill clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, our colleague from Pennsylvania, Senator SPECTER, just gave an eloquent speech on why the Supreme Court should be televised and how it would provide greater openness and transparency were decisions being made in the public's eye. I think that argument was very interesting. But there is one institution that is absolutely on television already, and that is the Congress of the United States. Through C–SPAN, what goes on in this Chamber and often in the committee rooms goes out all over America. We get phone calls, in many instances, from the C–SPAN watchers. I think it is an outstanding tool.

Someone watching what is going on all day would wonder: What are they doing? We have kind of lost sight, given some of the amendments that were offered, of just what is the pending business on the floor of the Senate today. As the person who chairs the Appropriations Subcommittee on Commerce, Justice and Science, I would like to remind the American people watching, and my colleagues, what is the pending business.

The pending business is how should we best fund those important agencies at the Commerce Department that promote trade and scientific innovation; also the Justice Department, rendering impartial justice, enforcing the laws that are on the books; to important science agencies, such as the American space program. What the appropriations bill does is it determines what goes in the Federal checkbook to fund these programs.

I am very proud of the way we, in our subcommittee, have worked on a bipartisan basis to bring a bill to the Senate floor that we believe reflects national priorities. I have worked hand in hand with my ranking member, the Republican Senator from Alabama, Mr. SHELBY, and we wrote good legislation.

What do we like about it? First of all, what we like about it is that we want to promote innovation and competition in our society. We are in a terrible economic mess. Our economy is rocking and rolling. The fact is, we still do not have jobs. What about these jobs? What do we do? I want to talk about the role of the Commerce Department in coming up with new ideas, making sure we have innovation from the government. Innovation is important because it is the new ideas that create the new products that create the new jobs.

I note the Presiding Officer is from the State of Ohio. There, as in my State, manufacturing has been very hard hit. Many of the traditional ways of life are not there. We have to look ahead to what is promoting innovation-friendly government. Right there in the Commerce Department is the Bureau of Industry and Security, which makes sure we are able to provide exports of our technology. We have the Patent and Trademark Office, which is guardian of our intellectual property around the world. It protects ideas and those who come up with inventions as private property, the hallmark of capitalism—the ability to own private

property and benefit from the fruits of your labor in an open and competitive marketplace. We would fund that.

When you come up with new products, you also have to have standards so a yardstick is the same in the United States as in any other country—or the metric system. What the National Institute of Standards does is it sets standards for products that will enable the private sector to compete among themselves and around the world. I am proud of them. They are located in Maryland, but even if they were located in Utah or Wyoming I would be proud of them because it is there that they set the standards which help set the pace for America to compete.

Much is said about our arms race, but one of the races we have been in is the race for America's future. One of the agencies that is the greatest inventor of technology has been the National Space Agency. We have all been thrilled to watch our astronauts go into space. Many of us, particularly this summer, were excited about the bold and courageous astronauts because they were able to retrofit Hubble with new batteries and a new camera so we could do the scientific work needed to send Hubble on its final journey. It is at the National Space Agency, though, that so much invention of new technology occurs.

As someone who has spoken out so much for women's health, and also the desire to prevent breast cancer, one of the things I am proud of is out of NASA's x-ray technology we have been able to develop other products for the civilian population, such as digital mammography.

A few months ago I broke my ankle and then wore a boot that looked like a space boot. It looked like a space boot because it maybe was—well, not mine. I would love to wear a space boot worn by Sally Ride or one of the great women astronauts. But the fact is, it is because of the technology that was developed to protect our astronauts that we now know how to protect us on Earth. This is what we are talking about.

Should we fund these agencies? Should we be able to make public investments that lead to private sector jobs? While we are fighting over should we have this prisoner over at Gitmo or other kinds of provocative social questions, we have a duty to promote those agencies that promote private sector jobs.

The other area I am very proud of in this bill is our support of law enforcement. Yes, we support Federal law enforcement, our FBI, our Marshal Service, as well as our Bureau of Alcohol, Tobacco, Firearms and Explosives. But I am also proud that we support that thin blue line of local law enforcement. For many of our communities, mayors and county executives are stretched to the limit. Sometimes people who commit crimes are better armed and have the latest technology, more than our cops on the beat. Through a program called the Byrne grants they are able to apply for Federal funds to be able to modernize themselves.

We don't want to hold up the funding. We want this bill to go ahead. We want things to happen. That is what this bill is. We have worked hard. Senator SHELBY and I held hearings, we held meetings, we met with local law enforcement.

We took the time to meet with people who have been victims, battered women. We fund the Violence Against Women Act. Do you know, since JOE BIDEN created that program, over 1 million people have called on the hotline; that we have protected over 1 million women from being abused and maybe even facing violence of such a degree that it threatened their lives?

This is not only about spending. These are about public investments that protect our communities and protect American jobs. I hope my colleagues will come and agree to complete discussion on their amendments so we can complete votes and bring this to a close so we can go to a conference with the House.

I note the Senator from Louisiana is on the Senate floor. I want to single her out, as they say in the colloquial: Do a shout-out. The Senator is well known for her work on adoption, and I salute her for that. Also, international adoption, making sure the laws are made and making sure, as people seek international adoption, there is not the exploitation of those children. We work with that in our bill. We also make sure we protect missing and exploited children in their own country.

You know, we see horrific, ghoulish, and grisly things done to young people who have been picked up. But thanks to the Adam Walsh Act, the Missing Children and Exploitation Act, we are stopping that. We have tough laws now against sexual predators and a way to keep them off the streets and to keep them registered. We have the money in the Federal checkbook to do that.

I really like this subcommittee because it does protect American jobs. It does protect American communities. It does protect the American people. I hope that today we can conclude our debate on the five pending amendments, move to a vote and try to get our country and our economy back again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I ask unanimous consent that the Senator from Louisiana be recognized for 3 minutes and then I follow with the 30 minutes I had allotted.

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

Ms. LANDRIEU. Mr. President, I appreciate the comments from our leader, Senator MIKULSKI from Maryland, who does a magnificent job as a member of the Appropriations Committee, and particularly in this area she feels passionate about. I look forward to continuing to work with her in all sorts of criminal justice areas, particularly as it relates to the protection of children. I thank her for those comments.

I thank the Senator for giving me a chance to speak very briefly, to do two things: one, to give a statement on an amendment that was proposed on this bill by Senator VITTER, that related to adding a question to the Census. I have submitted a letter on this to him personally.

Senator VITTER contends that the founding fathers only believed that citizens should be counted by Census officials for the purposes of congressional apportionment.

He argues that the inclusion of noncitizens in the census will result in Louisiana losing a congressional seat since the population of States like California and Texas could be inflated by millions of illegal immigrants, making their population growth relatively greater than ours.

Should noncitizens be included in the calculation that determines the allocation of seats in the House of Representatives? I believe that the answer is no.

But merely adding a question to the Census will not fix that. That change requires an amendment to the Constitution, which states: ''Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State''.

I think that the Constitution is clear. But my staff has checked with the Nation's foremost constitutional scholars at Yale, Stanford, and UCLA to name a few. They have checked with scholars from the political right and scholars from the political left. So far, every single scholar agrees: If you want to exclude noncitizens you must amend the Constitution.

Professor Eugene Volokh, a well-regarded constitutional law scholar at UCLA, and a staunch conservative, has written publicly that the notion would be unconstitutional.

Were the founders wrong to create the formula for congressional apportionment in that way? That is a very serious question for all 50 States, but it is far from the most important challenge confronting Louisiana today.

The fact is that if Louisiana does not bolster law enforcement, our communities will not be safe enough to attract new residents. If we do not improve our failing public schools, families will not want to call Louisiana home, and businesses would not have the employment base that will grow our economy.

The truth is that our State has seen more outward migration than any other in the Union. Only Louisiana and North Dakota lost population this decade, and Louisiana's population was reduced by a much higher degree.

Illegal immigration is a very serious problem. but it is not responsible for Louisiana's loss of representation. Andrew Beveridge, a sociologist at Queens

College and the Graduate Center of the City University of New york, has shown that even if all illegal immigrants were excluded, Louisiana would still lose a seat.

Here is our real problem: Decades of stagnant economic growth drove many Louisianians elsewhere, and that was before Hurricanes Katrina, Rita, Gustav and Ike severely impacted our populous coastal communities.

Demonstrating that Louisiana means business when it comes to reforming our schools and our police departments and our basic infrastructure takes serious work. That is the work that I engage in every day.

Blaming immigrants for our problems does not take much effort, but it will not make our State a better place to live either.

Secondly, quickly, since Puerto Rico does not have a Senator, as it is still a territory and not a State, I wanted to take the opportunity to express to the people of Puerto Rico our sadness about a terrible explosion that happened recently, on October 24. It occurred at one of their major refineries.

This came to my attention for two reasons. One, we also have a lot of refineries in Louisiana, so we are sensitive that accidents such as this can happen, but also as the Chair of the Subcommittee on Disaster Response, I wanted to talk a minute about this. The fire burned for 24 hours. It destroyed 22 of the 40 storage tanks. Thankfully and amazingly, no one was killed.

I come to the floor to congratulate the local officials, the Governor, the FEMA representatives, the law enforcement that responded to this horrific disaster. Some 1,500 people were evacuated, 596 people were sheltered outside of the impacted area. There were 130 firefighters and National Guard troops who worked to bring the inferno under control. The good news is that they did.

The purpose of this comment for the RECORD is to say that training and preparedness help. The Members of this body, both Democrats and Republicans, supported additional funding in last year's bill for FEMA for local training. Congress recognized the importance of training. Since 2007 we have appropriated over $250 million each year in grants. The post-Katrina emergency management reform gave FEMA regional administrators specific responsibility for coordinating that training.

I am encouraged that FEMA seems to have learned some of the lessons from Hurricane Katrina and also from September 11, which is now several years behind us, but nonetheless still on our minds. So I wanted to say that training, the appropriate amount of investment in training, works. Again, no one was killed.

I want to give credit to FEMA and the Governor of Puerto Rico, Luis Fortuño, for their quick action in keeping people safe, in responding to this situation. Hopefully we will continue to refine our processes, make our disaster response even better for disasters such as this. For hurricanes, for earthquakes, or for anything else that comes our way, we will be ready and able to respond.

I yield the floor and I thank the Senator from Oklahoma for being gracious with his time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I am going to spend about 20 minutes talking about amendments I have that are germane and we will be voting on. But they are small amendments. There is nothing big here. They are amendments that are designed to make a point.

We ran, by a factor of two, the largest deficit in the history of this country. Of the money we spent in the 2009 fiscal year, we borrowed 43 percent of it: 43 cents out of every dollar we expended, 43 cents we borrowed from our children and our grandchildren.

We have before us a bill, the Commerce-Justice-Science bill, that will go up almost 13 percent, 12.6 percent this year, on the back of a 15.5-percent increase last year. The latest inflation numbers are deflation, a minus four-tenths of 1 percent.

The question America has to ask itself, after we pass $800 billion of stimulus spending for which this agency got billions which are not reflected in any of these increases, is how is it that when we can spend $1.4 trillion we do not have, we can come to the floor and continue to have double-digit increases in almost everything we pass?

It does not take a lot of math to figure out that if we keep doing what we are doing, in 4½ years the size of the Federal Government doubles. If you do this for another 4 years, we will double the size of the Federal Government. So there is absolutely no fiscal restraint within the appropriations bills that are going through this body with the exception of one, and that is the Defense Department, probably the one that is most important to us in terms of our national security, in terms of where there is no question we have waste but where we need to make sure that we are prepared for the challenges that face us.

If you look at what we passed through the body, and you look at 2008, 2009, you go 10, 9.9, 9.4, 13.0, 13.3, 14.1, 15.7—that was last year—and now we are going to go 5.7, 7.2, 1.4, 12.6, 22.5, 16.2, and 12.6.

Not only are we on an unsustainable course as far as mandatory programs such as Social Security and Medicare—by the way, we have now borrowed from Social Security, stolen from Social Security, $2.4 trillion which we do not even recognize we owe. We do not put it on our balance sheet. We have stolen $758 billion from the Medicare trust fund, which we do not even recognize. So we borrowed $3 trillion from funds that were supposed to be there for our seniors and our retirees which our children—not us; our children and our grandchildren—will have to repay.

I saw this the other day on the Internet. It speaks a million words to me. Here is a little girl, a toddler with a pacifier in her mouth. She has got a sign hanging around her neck. She says: I am already $38,375 in debt and I only own a doll house.

The problem with that is that she way understates what she is in debt for. That is just the recognized external debt. That does not count what we borrowed internally from our grandchildren. It does not count the unfunded liabilities she through her lifetime will never get any benefit from but will pay because we have stolen the benefit for us, without being good stewards of the money that has been given to us.

If you go through this and you look at it, by the time she is 40, she will be responsible for the $1,119,000 worth of debt we have accumulated for payments for Medicare, Social Security, and Medicaid that she got absolutely zero benefit from.

Then if you think about a $1 million debt for a little girl like this and what it costs, what the interest is to fund that debt, if you just said 6 percent, she has got to make $60,000 first to pay the interest on that debt before she pays any taxes, her share of the taxes, and before she has the capability to have a home and have children and have a college education, own a car. We are absolutely, with bills such as this, strangling her. We are strangling her.

I am reminded what one of our Founders said, and it is so important. I love the Senator from Maryland. She said we had plenty of money in the checkbook to do this. We do not have plenty of money in the checkbook to do this. What we have is an unlimited credit card that we keep putting into the machine and saying, we will take the money and our kids will pay later. That is what we are doing.

Thomas Jefferson said, ''I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.''

When we are seeing 12.6 and 15 percent increases in the nonmandatory side, the non-Social Security, the non-Medicare, the non-Medicaid side of the budget, we have fallen into the trap Thomas Jefferson was worried about.

I know my colleagues are sick of me talking about this. But you know what, the American people are not sick of us talking about it. They get it. They realize that we refuse to make hard choices. Every one of them is making hard choices today with their families about their future based on their income. Yet we have the gall to bring to the floor double-digit spending at a time when people, 10 percent of Americans, are out of work, seeking work, another 5 percent have given up, and we are saying, that is fine if we have a 12-percent increase. It is fine. No problem. There is plenty of money in the checking account.

There is no money in the checking account. We are perilously close to having our foreign policy dictated to us by those who own our bonds, people outside of this country. The time to start changing that is now.

I have two little amendments, and one is very instructive. The political science community is hot and bothered because I would dare to say that maybe in a time of $1.4 trillion deficits, maybe at a time when we have 10 percent unemployment, maybe at a time when we are at the worst financial condition we have ever been in our country's history, maybe we ought not spend money asking the questions why politicians give vague answers, or how we can do tele-townhall meetings and raise our numbers. Maybe we ought not to spend this money on those kinds of things right now.

You see, it is instructive because those who are getting from the Federal Government now do not care about their grandchildren. What they want is what they are getting now. Give me now; it doesn't matter what happens to the rest of the generations that follow us.

So we have the political science community all in an uproar, not because I am against the study of political science but because I think now is not the time to spend money on that. Now is the time to spend money we absolutely have to spend, on things which are absolute necessities, as every family in America is making those decisions today. We do not have the courage to do it because it offends individual interest groups that are getting money from the Federal Government for a priority that is much less than the defense of this country, protecting people, securing the future, taking care of their health care, and making sure we have law and order.

You see, Alexander Tyler warned of this as he studied why republics fail. He said, ''All republics fail.'' They fail because when people learn they can vote themselves money from the public treasury, all of the other priorities go out the window. They become totally self-focused, self-centered on what is in it for them, with no long-range vision, only parochial vision, no vision for the country as a whole, but only what is good for them. It is called self-centeredness. It is called selfishness. And we perpetuate it in this body by bringing bills to the floor that are resistant to amendments that say: Maybe this is not a priority right now.

I would bet if you polled the American public and said, we are going to run another $1.4 trillion deficit this year, we probably would not want to spend $12 million telling politicians how to stay elected. We probably would not.

The fact is, it is major universities that get this small amount of money are in debt in excess of $50 billion.

They have plenty of money to fund this if they wanted, but they don't do it because they are getting from the person who is out of work. They are getting from the person who didn't get that job because the economy is on its back, because we are borrowing $1.4 trillion and competing with the capital that is required to create a job. It is just a small amount of money. It by itself won't make any difference. But supporting this amendment will build on confidence with the American people that says, he is right, we ought to be about priorities.

We ought to be about doing what is most important first and cutting out what is least important because the times call for discipline so we don't further hamstring the generation of children to which this young lady belongs. If you take $5 or $6 million and do it once, pretty soon, if you have done it 10 times, you have $60 million. You do it another 10 times, you have $600 million. Pretty soon, we have billions of dollars we are not spending because it is low priority and we are not borrowing it against our children. All of a sudden, the value of the dollar starts to rise. Confidence around the world in the dollar starts increasing. Competition for capital by the Federal Government competing in the private sector for the capital goes down. The cost of capital goes down. Credit flows and job opportunities are created. We don't connect that because we have always done it that way. We have a budget allocation. As long as we are under that budget allocation, everything is fine.

Where is the leadership in our country today that says we are going to model a leadership that we know the American people expect of us—make hard choices, take the heat to eliminate things that are lower priority so that we can preserve the priority of this child and those of her generation? The fact is, that leadership is nonexistent. There is no reason for anyone to doubt why confidence in the Congress is at alltime lows. We are not realists. We are not listening.

The message out there, the No. 1 concern with fear isn't health care; it is economic. Am I going to have a job tomorrow? Am I going to be able to pay my bills? Will I be able to pay my mortgage? There are thousands of items in every appropriations bill just like this one, just like that amendment that we could eliminate tomorrow. It might create some small hardship but nothing compared to the hardship we are transferring to the following generation.

I have no doubt of the outcome of the votes on my amendments. I understand we are a resistant, recalcitrant body that refuses to recognize the will and direction of the American people in terms of commonsense priorities. I understand that. But what we must understand is, they are awake now, they are listening, and they are watching. It is time to respond to the desires of the American people and stop responding to the special interests of those who are getting money from the Federal Government that are low priority in terms of what really counts and really matters for our future.

I have one other amendment we will be voting on that transfers money to increase the money at the inspector general. It will not slow down the conversion of the Hoover Building at all. We have been told that. But it will help to make good government.

Part of our problem in government is about 10 percent of everything we do is pure waste, pure fraud, or pure duplication. If we are going to invest dollars in something, we ought to invest in the transparency and accountability mechanisms we have already set up.

I find myself encouraged by the attitude of the American people, yet discouraged by the attitude of my colleagues. Nobody wants to take and make the hard choices, the hard choices that say we are going to get heat if we start prioritizing. The easiest is to do nothing. The easiest is to continue to let the programs run whether they are high priority or not. That is easy. But America is having a rumble right now. The ground is shaking. The American people are paying attention. They are going to watch votes just like this one. Then we are going to be called to account as to, why won't you make priority choices, why won't you take the heat.

If there ought to be any political science study done, it is, why are Members of Congress such cowards? That is the thing we ought to study. We ought to study why we refuse to do the right thing because it puts our job at risk. We ought to be doing the right thing when it does put our job at risk and when it doesn't.

I will finish up by reminding us of what our oath is. Our oath never mentions our State. Our oath never mentions our special interest. Our oath never mentions our campaign contributors. What our oath mentions is that we are Senators of the United States—not from Oklahoma, not from Delaware, not from Maryland, not from Ohio. We are Senators of the United States; we just happen to be from those places. Our oath is to the long-term best interest of the country, never a parochial interest.

As you go through these bills, what you see are parochial interests trumping the long-term best interests of the country. That is not to demean the fine job the Senator from Maryland has done. She came in with the number that was given her. There is no question that she probably made some tough choices as she did that. But we haven't made enough. This kind of increase in this kind of bill is absurd. It is obscene. It is obscene at a time when the average family's income is declining, their ability to have the freedom to make choices, relaxed choices about what they do versus very stern choices about what is a necessity. We have not gotten the message.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 2669

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak on behalf of amendment No. 2669 that has been offered by Senator GRAHAM, with Senators WEBB, MCCAIN, and myself as cosponsors. It is a pending amendment.

The purpose of this amendment is quite straightforward. It would prevent the use of any funds made available to the Department of Justice by this appropriations bill from being used to prosecute any individual suspected of involvement in the 9/11/01 attacks against the United States in an article III court—that means essentially a regular Federal court created pursuant to article III of our Constitution.

Why would we feel we need to do such a thing? It is because the current protocol governing the disposition of cases referred for possible prosecution of detainees currently held at Guantanamo Bay, Cuba, the current protocol of the U.S. Department of Justice governing the referral of these detainees from Guantanamo Bay, says as follows:

No. 2, Factors for Determination of Prosecution. There is a presumption that, where feasible, referred cases will be prosecuted in an Article III court in keeping with traditional principles of federal prosecution.

It is because we who are sponsoring this amendment think there is a fundamental error of judgment—in fact, in its way, an act of injustice—that these individuals, suspected terrorists being held at Guantanamo Bay, Cuba, suspected in this case, according to our amendment, of having been involved in the attacks of 9/11 on the United States which resulted in the deaths of almost 3,000 people, that these individuals would be tried in a regular U.S. Federal court as if they were accused of violating our criminal laws. They are not common criminals or uncommon criminals; they are suspected of being war criminals. As such, they should not be brought to prosecution in a traditional Federal court along with other accused criminals.

Citizens of the United States have all the right to the protections of our Constitution in the Federal courts, article III courts of the United States. These are suspected terrorist war criminals who are not entitled to all the protections of our Constitution and whose prosecution should not be confused with a normal criminal law prosecution. They are war criminals. They ought to be tried according to all the rules that prevail for war criminals, including, of course, the Geneva Conventions.

This Congress has established a tradition and improved in recent times a system of military commissions, a system adopted by both Houses of Congress, signed into law by the President, which provides standards of due process and fairness in the trial of suspected war criminals, not just in compliance with the Geneva Conventions and the Supreme Court of the United States but well above the standards that have been required by both the Supreme Court and the Geneva Conventions.

Those who are accused of committing the heinous, cowardly acts of intentionally targeting unsuspecting, defenseless civilians in an act of war as part of a larger declared war of Islamic extremists against, frankly, anybody who is not like them—the most numerous victims of these Islamic terrorists around the world are fellow Muslims who don't agree with their extremism. They have killed many people of other religions. When they struck us in the United States on 9/11, they killed an extraordinary classically American diverse group of people. The only reason they were targeted was that they were in the United States. The terrorists, these people who are suspected of being terrorists participating in and aiding the attacks of 9/11, are war criminals, not common criminals. They should, therefore, be tried by a military commission system, which goes back as long as the Revolutionary War in the United States. There is a proud and fair tradition. We have upgraded and strengthened all the due process and legal protections of them after 9/11. So why would we take these war criminals, suspected war criminals, and bring them into the criminal courts of the United States and give them the rights of the Constitution. I don't understand.

Every Member of the Senate received a letter today from quite a large number of families of the victims of 9/11, 140-plus at last writing. I want to read briefly from the letter. The letter is in support of the amendment Senators GRAHAM, WEBB, MCCAIN, and I have offered.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words ''Never Forget'' were invoked in tearful or angry rectitude, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials all across this land.

The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day.

Remember, Mr. President, this is written by people who lost dear ones on 9/11.

They continue:

Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf.

They continue:

It is incomprehensible to us that Members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a ''blessed day'' and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

So they say:

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions . . . are the appropriate legal forum for the individuals who declared war on America.

Mr. President, I know there will be further debate on this amendment, but I ask my colleagues to join in this. We are doing it not just because of the protocol I cited at the beginning but because of stories that are emanating that perhaps as early as next week, the Department of Justice will announce they are going to bring Khalid Shaikh Mohammed, the man who planned the 9/11 attacks, who is in our custody, to trial in a Federal court. This man is, from all that I know, one of the devils of history, an evil man who wrought terrible destruction and suffering on our country, and he ought to be given due process, but he ought to be given due process in a forum reserved for suspected war criminals, and that is the military commissions.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The senior Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank my friend and colleague, Senator LIEBERMAN. Along with Senator GRAHAM and Senator WEBB, we are strongly supporting this amendment.

Senator LIEBERMAN made reference to a letter that has currently been signed by 214 9/11 family members. Mr. President, I ask unanimous consent that this letter be printed in the RECORD, along with an article from the Wall Street Journal dated October 19, 2009, entitled ''Civilian Courts Are No Place To Try Terrorists'' by Michael B. Mukasey, the former Attorney General of the United States of America.

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

NOVEMBER 5, 2009.

U.S. SENATE,
The U.S. Capitol,
Washington, DC.

DEAR SENATORS: On September 11, 2001, the entire world watched as 19 men hijacked four commercial airliners, attacking passengers and killing crew members, and then turned the fully-fueled planes into missiles, flying them into the World Trade Center twin towers, the Pentagon and a field in Shanksville, Pennsylvania. 3,000 of our fellow human beings died in two hours. The nation's commercial aviation system ground to a halt. Lower Manhattan was turned into a war zone, shutting down the New York Stock Exchange for days and causing tens of thousands of residents and workers to be displaced. In nine months, an estimated 50,000 rescue and recovery workers willingly exposed themselves to toxic conditions to dig out the ravaged remains of their fellow citizens buried in 1.8 million tons of twisted steel and concrete.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our

common humanity, the words ''Never Forget'' were invoked in tearful or angry rectitude, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials erected all across the land. The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day. Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf. It is incomprehensible to us that members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a ''blessed day'' and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

We support Senate Amendment 2669 (pursuant to H.R. 2847, the Commerce, Justice, Science Appropriations Act of 2010), ''prohibiting the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks.'' We urge its passage by all those members of the United States Senate who stood on the senate floor eight years ago and declared that the perpetrators of these attacks would answer to the American people. The American people will not understand why those same senators now vote to allow our cherished federal courts to be manipulated and used as a stage by the ''mastermind of 9/11'' and his co-conspirators to condemn this nation and rally their fellow terrorists the world over. As one New York City police detective, who lost 60 fellow officers on 9/11, told members of the Department of Justice's Detainee Policy Task Force at a meeting last June, ''You people are out of touch. You need to hear the locker room conversations of the people who patrol your streets and fight your wars.''

The President of the United States has stated that military commissions, promulgated by congressional legislation and recently reformed with even greater protections for defendants, are a legal and appropriate forum to try individuals captured pursuant the 2001 Authorization for the Use of Military Force Act, passed by Congress in response to the attack on America. Nevertheless, on May 21, 2009, President Obama announced a new policy that Al-Qaeda terrorists should be tried in Article III courts ''whenever feasible.''

We strongly object to the President creating a two-tier system of justice for terrorists in which those responsible for the death of thousands on 9/11 will be treated as common criminals and afforded the kind of platinum due process accorded American citizens, yet members of Al Qaeda who aspire to kill Americans but who do not yet have blood on their hands, will be treated as war criminals. The President offers no explanation or justification for this contradiction, even as he readily acknowledges that the 9/11 conspirators, now designated ''unprivileged enemy belligerents,'' are appropriately accused of war crimes. We believe that this two-tier system, in which war criminals receive more due process protections than would-be war criminals, will be mocked and rejected in the court of world opinion as an ill-conceived contrivance aimed, not at justice, but at the appearance of moral authority.

The public has a right to know that prosecuting the 9/11 conspirators in federal courts will result in a plethora of legal and procedural problems that will severely limit or even jeopardize the successful prosecution of their cases. Ordinary criminal trials do not allow for the exigencies associated with combatants captured in war, in which evidence is not collected with CSI-type chain-of-custody standards. None of the 9/11 conspirators were given the Miranda warnings mandated in Article III courts. Prosecutors contend that the lengthy, self-incriminating tutorials Khalid Sheikh Mohammed and others gave to CIA interrogators about 9/11 and other terrorist operations—called ''pivotal for the war against Al-Qaeda'' in a recently released, declassified 2005 CIA report—may be excluded in federal trials. Further, unlike military commissions, all of the 9/11 cases will be vulnerable in federal court to defense motions that their prosecutions violate the Speedy Trial Act. Indeed, the judge presiding in the case of Ahmed Ghailani, accused of participating in the 1998 bombing of the American Embassy in Kenya, killing 212 people, has asked for that issue to be briefed by the defense. Ghailani was indicted in 1998, captured in Pakistan in 2004, and held at Guantanamo Bay until 2009.

Additionally, federal rules risk that classified evidence protected in military commissions would be exposed in criminal trials, revealing intelligence sources and methods and compromising foreign partners, who will be unwilling to join with the United States in future secret or covert operations if doing so will risk exposure in the dangerous and hostile communities where they operate. This poses a clear and present danger to the public. The safety and security of the American people is the President's and Congress's highest duty.

Former Attorney General Michael Mukasey recently wrote in the Wall Street Journal that ''the challenges of terrorism trials are overwhelming.'' Mr. Mukasey, formerly a federal judge in the Southern District of New York, presided over the multi-defendant terrorism prosecution of Sheikh Omar Abel Rahman, the cell that attacked the World Trade Center in 1993 and conspired to attack other New York landmarks. In addition to the evidentiary problems cited above, he expressed concern about courthouse and jail facility security, the need for anonymous jurors to be escorted under armed guard, the enormous costs associated with the use of U.S. marshals necessarily deployed from other jurisdictions, and the danger to the community which, he says, will become a target for homegrown terrorist sympathizers or embedded Al Qaeda cells.

Finally, there is the sickening prospect of men like Khalid Sheikh Mohammed being brought to the federal courthouse in Lower Manhattan, or the courthouse in Alexandria, Virginia, just a few blocks away from the scene of carnage eight years ago, being given a Constitutionally mandated platform upon which he can mock his victims, exult in the suffering of their families, condemn the judge and his own lawyers, and rally his followers to continue jihad against the men and women of the U.S. military, fighting and dying in the sands of Iraq and the mountains of Afghanistan on behalf of us all.

There is no guarantee that Mr. Mohammed and his co-conspirators will plead guilty, as in the case of Zacarias Moussaoui, whose prosecution nevertheless took four years, and who is currently attempting to recant that plea. Their attorneys will be given wide latitude to mount a defense that turns the trial into a shameful circus aimed at vilifying agents of the CIA for alleged acts of ''torture,'' casting the American government and our valiant military as a force of evil instead of a force for good in places of the Muslim World where Al Qaeda and the Taliban are waging a brutal war against them and the local populations. For the families of those who died on September 11, the most obscene aspect of giving Constitutional protections to those who planned the attacks with the intent of inflicting maximum terror on their victims in the last moments of their lives will be the opportunities this affords defense lawyers to cast their clients as victims.

Khalid Sheikh Mohammed and his co-conspirators are asking to plead guilty, now, before a duly-constituted military commission. We respectfully ask members of Congress, why don't we let them?

Respectfully submitted,

(214 Family Members).

[From the Wall Street Journal, Oct. 19, 2009]

CIVILIAN COURTS ARE NO PLACE TO TRY TERRORISTS

(By Michael B. Mukasey)

The Obama administration has said it intends to try several of the prisoners now detained at Guantanamo Bay in civilian courts in this country. This would include Khalid Sheikh Mohammed, the mastermind of the Sept. 11, 2001 terrorist attacks, and other detainees allegedly involved. The Justice Department claims that our courts are well suited to the task.

Based on my experience trying such cases, and what I saw as attorney general, they aren't. That is not to say that civilian courts cannot ever handle terrorist prosecutions, but rather that their role in a war on terror—to use an unfashionably harsh phrase—should be, as the term ''war'' would suggest, a supporting and not a principal role.

The challenges of a terrorism trial are overwhelming. To maintain the security of the courthouse and the jail facilities where defendants are housed, deputy U.S. marshals must be recruited from other jurisdictions; jurors must be selected anonymously and escorted to and from the courthouse under armed guard; and judges who preside over such cases often need protection as well. All such measures burden an already overloaded justice system and interfere with the handling of other cases, both criminal and civil.

Moreover, there is every reason to believe that the places of both trial and confinement for such defendants would become attractive targets for others intent on creating mayhem, whether it be terrorists intent on inflicting casualties on the local population, or lawyers intent on filing waves of lawsuits over issues as diverse as whether those captured in combat must be charged with crimes or released, or the conditions of confinement for all prisoners, whether convicted or not.

Even after conviction, the issue is not whether a maximum-security prison can hold these defendants; of course it can. But

their presence even inside the walls, as proselytizers if nothing else, is itself a danger. The recent arrest of U.S. citizen Michael Finton, a convert to Islam proselytized in prison and charged with planning to blow up a building in Springfield, Ill., is only the latest example of that problem.

Moreover, the rules for conducting criminal trials in federal courts have been fashioned to prosecute conventional crimes by conventional criminals. Defendants are granted access to information relating to their case that might be useful in meeting the charges and shaping a defense, without regard to the wider impact such information might have. That can provide a cornucopia of valuable information to terrorists, both those in custody and those at large.

Thus, in the multidefendant terrorism prosecution of Sheik Omar Abdel Rahman and others that I presided over in 1995 in federal district court in Manhattan, the government was required to disclose, as it is routinely in conspiracy cases, the identity of all known co-conspirators, regardless of whether they are charged as defendants. One of those coconspirators, relatively obscure in 1995, was Osama bin Laden. It was later learned that soon after the government's disclosure the list of unindicted co-conspirators had made its way to bin Laden in Khartoum, Sudan, where he then resided. He was able to learn not only that the government was aware of him, but also who else the government was aware of.

It is not simply the disclosure of information under discovery rules that can be useful to terrorists. The testimony in a public trial, particularly under the probing of appropriately diligent defense counsel, can elicit evidence about means and methods of evidence collection that have nothing to do with the underlying issues in the case, but which can be used to press government witnesses to either disclose information they would prefer to keep confidential or make it appear that they are concealing facts. The alternative is to lengthen criminal trials beyond what is tolerable by vetting topics in closed sessions before they can be presented in open ones.

In June, Attorney General Eric Holder announced the transfer of Ahmed Ghailani to this country from Guantanamo. Mr. Ghailani was indicted in connection with the 1998 bombing of U.S. Embassies in Kenya and Tanzania. He was captured in 2004, after others had already been tried here for that bombing.

Mr. Ghailani was to be tried before a military commission for that and other war crimes committed afterward, but when the Obama administration elected to close Guantanamo, the existing indictment against Mr. Ghailani in New York apparently seemed to offer an attractive alternative. It may be as well that prosecuting Mr. Ghailani in an already pending case in New York was seen as an opportunity to illustrate how readily those at Guantanamo might be prosecuted in civilian courts. After all, as Mr. Holder said in his June announcement, four defendants were ''successfully prosecuted'' in that case.

It is certainly true that four defendants already were tried and sentenced in that case. But the proceedings were far from exemplary. The jury declined to impose the death penalty, which requires unanimity, when one juror disclosed at the end of the trial that he could not impose the death penalty—even though he had sworn previously that he could. Despite his disclosure, the juror was permitted to serve and render a verdict.

Mr. Holder failed to mention it, but there was also a fifth defendant in the case, Mamdouh Mahmud Salim. He never participated in the trial. Why? Because, before it began, in a foiled attempt to escape a maximum security prison, he sharpened a plastic comb into a weapon and drove it through the eye and into the brain of Louis Pepe, a 42-year-old Bureau of Prisons guard. Mr. Pepe was blinded in one eye and rendered nearly unable to speak.

Salim was prosecuted separately for that crime and found guilty of attempted murder. There are many words one might use to describe how these events unfolded; ''successfully'' is not among them.

The very length of Mr. Ghailani's detention prior to being brought here for prosecution presents difficult issues. The Speedy Trial Act requires that those charged be tried within a relatively short time after they are charged or captured, whichever comes last. Even if the pending charge against Mr. Ghailani is not dismissed for violation of that statute, he may well seek access to what the government knows of his activities after the embassy bombings, even if those activities are not charged in the pending indictment. Such disclosures could seriously compromise sources and methods of intelligence gathering.

Finally, the government (for undisclosed reasons) has chosen not to seek the death penalty against Mr. Ghailani, even though that penalty was sought, albeit unsuccessfully, against those who stood trial earlier. The embassy bombings killed more than 200 people.

Although the jury in the earlier case declined to sentence the defendants to death, that determination does not bind a future jury. However, when the government determines not to seek the death penalty against a defendant charged with complicity in the murder of hundreds, that potentially distorts every future capital case the government prosecutes. Put simply, once the government decides not to seek the death penalty against a defendant charged with mass murder, how can it justify seeking the death penalty against anyone charged with murder—however atrocious—on a smaller scale?

Even a successful prosecution of Mr. Ghailani, with none of the possible obstacles described earlier, would offer no example of how the cases against other Guantanamo detainees can be handled. The embassy bombing case was investigated for prosecution in a court, with all of the safeguards in handling evidence and securing witnesses that attend such a prosecution. By contrast, the charges against other detainees have not been so investigated.

It was anticipated that if those detainees were to be tried at all, it would be before a military commission where the touchstone for admissibility of evidence was simply relevance and apparent reliability. Thus, the circumstances of their capture on the battlefield could be described by affidavit if necessary, without bringing to court the particular soldier or unit that effected the capture, so long as the affidavit and surrounding circumstances appeared reliable. No such procedure would be permitted in an ordinary civilian court.

Moreover, it appears likely that certain charges could not be presented in a civilian court because the proof that would have to be offered could, if publicly disclosed, compromise sources and methods of intelligence gathering. The military commissions regimen established for use at Guantanamo was designed with such considerations in mind. It provided a way of handling classified information so as to make it available to a defendant's counsel while preserving confidentiality. The courtroom facility at Guantanamo was constructed, at a cost of millions of dollars, specifically to accommodate the handling of classified information and the heightened security needs of a trial of such defendants.

Nevertheless, critics of Guantanamo seem to believe that if we put our vaunted civilian justice system on display in these cases, then we will reap benefits in the coin of world opinion, and perhaps even in that part of the world that wishes us ill. Of course, we did just that after the first World Trade Center bombing, after the plot to blow up airliners over the Pacific, and after the embassy bombings in Kenya and Tanzania.

In return, we got the 9/11 attacks and the murder of nearly 3,000 innocents. True, this won us a great deal of goodwill abroad—people around the globe lined up for blocks outside our embassies to sign the condolence books. That is the kind of goodwill we can do without.

Mr. McCAIN. Mr. President, I urge my colleagues, who will be made aware of a letter from Mr. Holder and Secretary Gates, who are urging defeat of this amendment, to look at the views of the previous Attorney General of the United States, which are diametrically opposed.

The 9/11 families say—and I am sure they represent all of the 9/11 families—

> We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

I would be glad to respond to a question from the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Arizona. I would ask the Senator if he would be kind enough to ask unanimous consent that I could follow him, speaking after his remarks.

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senator from Illinois follow me.

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

Mr. McCAIN. Mr. President, these are the 9/11 families. All Americans were impacted by 9/11, the 9/11 families in the most tragic fashion. This is a very strong letter from them concerning the strong desire that these 9/11 conspirators not be tried in article III courts but be tried according to the military commissions.

The 9/11 victims experienced an act of war against the United States, carried out not on some distant shore but in our communities on the very symbols of our national power. Because it involved attacks on innocent civilians and innocent civilian targets, it is a war crime. It is a war crime that was committed by the 9/11 terrorists. It is important that we call things what they are and not gloss over the essence of these events, even though they occurred 8 years ago.

In response to the attacks, the Congress quickly and overwhelmingly passed the Authorization for Use of

Military Force giving the President the authority to ''use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. . . .'' The Senate passed this legislation unanimously.

The Authorization for Use of Military Force recognized the true nature of these attacks and committed the entire resources of the United States to our self-defense in light of the grave threat to our national security and foreign policy. The United States does not go to war over a domestic criminal act, nor should it. It was clearly understood at that time that far more was at stake. We sent our sons and daughters off to war, where they have been bravely risking their lives and futures on our behalf for the last 8 years.

Given the facts and history of the 9/11 attacks, we should not deal with the treachery and barbarism of the slaughter of thousands of innocent civilians as a matter of law enforcement in the ordinary sense. To do so would belittle the events that transpired, the symbolism and purpose of the attacks, the huge number of lives that were lost, and the threat posed to the United States—which continues in the caves and sanctuaries of al-Qaida to this day.

During my life, I have been a warrior, although that seems a long time ago now. I have some experience in the reality of combat and the suffering it brings. I know something of the law of war, having fought constrained by it and having lived through it, with the help of my comrades and my faith, times when my former enemy felt unconstrained by it.

No, the attacks of 9/11 were not a crime; they were a war crime. Together with my colleagues in Congress, I have worked closely with the President to provide a means to address war crimes committed against this country in a war crimes tribunal—the Military Commissions Act of 2009. It was designed specifically for this purpose. It should be used not to mete out a guilty verdict and sentence that could not be achieved in Federal criminal court but to call things what they are, to be unshakable in our resolve to respond to the unprecedented attacks of 9/11 consistent with the Authorization for Use of Military Force and to tell this and any future enemy that when they attack our innocent civilians at home, we will not be sending the police after them to make an arrest.

By denying funds to the Department of Justice to prosecute these horrendous crimes in article III courts, I do not mean these outrages against our country and its citizens should go unpunished. In fact, I have long argued that justice in these cases was long overdue and that prosecutions should be pursued as expeditiously as possible. Rather, my support for this amendment is based on my unshakable view that these events were acts of war and war crimes and that the proper forum for bringing the war criminals to justice is a military tribunal consistent with longstanding traditions in this country that date back to George Washington's Continental Army during the founding of the Republic.

For that reason, I urge my colleagues to support this amendment so that the prosecution of war crimes will take place in the traditional and long-accepted forum of a military tribunal, as the Congress overwhelmingly enacted in 2006 and which the National Defense Authorization Act for 2010 amended and improved in a statute that was enacted into law by President Obama just days ago.

Again, I hope we will, as we have in the past, listen to the families of 9/11. From the trauma and sorrow of the tragedy they experienced in the loss of their families, they became a force. They became a force that without them we would have never had the 9/11 Commission, we would have never been able to make the reforms that arguably have made our Nation much safer.

Now, today, the families are standing up and saying: Try these war criminals according to war crimes which they committed—the heinous acts of 9/11, which I know Americans will never forget.

Mr. President, I hope we will vote in favor of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I have great respect for my colleagues from Arizona and Connecticut, but I respectfully disagree with them on this amendment.

If this amendment passes, it will say that the only people in the world who cannot be tried in the courts of America for crimes of terrorism are those who are accused of terrorism on 9/11. Think about that for a moment. The argument is being made that we should say to the President and Attorney General that when they plot their strategy to go after the men and women responsible for 9/11, we will prohibit them, by the language of this amendment, from considering the prosecution of these terrorists in the courts of America.

What are the odds of prosecuting a terrorist successfully in the courts of America, our criminal courts, as opposed to military commissions, commissions that have been created by law, argued before the Supreme Court, debated at great length? What are the odds of a successful prosecution of a terrorist in the courts of our land as opposed to a military commission? I can tell you what the odds are. They are 65 to 1 in favor of prosecution in our courts. Mr. President, 195 terrorists have been prosecuted in our courts since 9/11. Three have been prosecuted by military commissions. But the offerers of this amendment want to tie the hands of our Department of Justice and tell them: You cannot spend a penny, not one cent, to pursue the prosecution of a terrorist in an American court.

Who disagrees with this amendment? It is not just this Senator from Illinois. It would be our Secretary of Defense, Robert Gates, and our Attorney General, Eric Holder. Here is what they said in a letter to all Members of the Senate about this amendment:

> We write to oppose the amendment proposed by Senator Graham (on behalf of himself and Senators McCain and Lieberman). . . . This amendment would prohibit the use of Department of Justice funds ''to commence or continue the prosecution in an Article III court of the United States of an individual suspected of planning, authorizing, organizing, committing, or aiding the attacks on the United States and its citizens that occurred on September 11, 2001.''

They go on to say:

> As you know, both the Department of Justice and the Department of Defense have responsibility for prosecuting alleged terrorists. Pursuant to a joint prosecution protocol, our departments are currently engaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III, court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.
>
> We believe it would be unwise, and would set a dangerous precedent, for Congress to restrict the discretion of either department to fund particular prosecutions. The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.
>
> For these reasons, we respectfully request that you oppose this amendment.

This amendment would hinder President Obama's efforts to combat terrorism. That is why the Secretary of Defense and the Attorney General have written to each one of us urging us to vote no.

The Graham amendment would be an unprecedented intrusion into the authority of the executive branch of our government to combat terrorism.

There is a great argument. For 8 long years, Republicans argued it was inappropriate to interfere in any way with President Bush's Commander in Chief authority. Time and again, we were told by our Republican colleagues that it is inappropriate and even unconstitutional for Congress to ask basic questions about the Bush administration's policies on issues such as Iraq, Guantanamo, torture, or warrantless wiretapping. Time and again, we were told that Congress should defer to the Defense Department's expertise.

Let me give one example. On September 19, 2007, the author of this amendment, Senator GRAHAM, said, and I quote:

> The last thing we need in any war is to have the ability of 535 people who are worried about the next election to be able to micromanage how you fight the war. This is not only micromanagement, this is a constitutional shift of power.

Just 2 years later, a different President of a different party, and my Republican colleagues have a different view. My colleagues think Congress should not defer to that very same Defense Secretary, Robert Gates, and they think it is not only appropriate but urgent for Congress to tie the hands of this administration, making it more difficult to bring terrorists to justice. Clearly, there is a double standard at work.

Some of my Republican colleagues argue that Federal courts are not well suited to prosecute terrorists, and terrorists should only be prosecuted by military commissions. But look at the facts. Since 9/11, 195 terrorists have been convicted in Federal courts. Three have been convicted by military commissions. Again, the odds are 65 to 1 that if we want to find a terrorist guilty and be incarcerated for endangering or killing Americans, it is better to go to a regular court in America than to a military commission. That is the record since 9/11.

According to the Justice Department, since January 1 of this year, more than 30 terrorists have been successfully prosecuted or sentenced in Federal courts. I would like to ask my colleagues behind this amendment and their inspiration, the Wall Street Journal: Was this a mistake, taking accused terrorists into our courts and successfully prosecuting them under the laws of America?

Clearly, it was not. The Department of Justice made the right decision effectively prosecuting these individuals and, equally important, showing to the world we would take these people accused of terrorism into the very same system of justice that applies to every one of us as American citizens, hold them to the same standards of proof, give them the rights that are accorded to them in our court system, and come to a just verdict.

That is an important message. It is a message which says we can treat these individuals in our judicial system in a fair way and come to a fair conclusion and find justice, and we did—195 times since 9/11, 30 times just this year.

Recently, the administration transferred Ahmed Ghailani to the United States to prosecute him for involvement in the 1998 bombings of our Embassies in Kenya and Tanzania. Those bombings killed 224 people, including 12 Americans. My colleagues on the other side of the aisle have been very critical of this administration's decision to bring this man to justice in the courts of America. One of them, a House Republican Member from Virginia, ERIC CANTOR, said, and I quote:

> We have no judicial precedence for the conviction of someone like this.

That is from Congressman CANTOR. Unfortunately, the Congressman is wrong. There are many precedents for convicting terrorists in U.S. courts. I will name a few: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheikh; Richard Reid, the Shoe Bomber; Zacarias Moussaoui; Ted Kaczynski, the Unabomber; and Terry Nichols, the Oklahoma City coconspirator. They were all accused of terrorism. Some were citizens of the United States, some not. All were tried in the same article III courts which this amendment would prohibit—would prohibit—our President and Attorney General from using.

In fact, there is precedent for convicting terrorists who were involved in the bombing of U.S. Embassies in Tanzania and Kenya, the same attack in which Ahmed Ghailani was allegedly involved. In 2001, four men were sentenced to life without parole at the Federal courthouse in Lower Manhattan, the same court in which Mr. Ghailani will be tried. To argue that we cannot successfully prosecute a terrorist in American courts is to ignore the truth and ignore history.

Susan Hirsch lost her husband in the Kenya Embassy bombing. She testified at the sentencing hearing for the four terrorists who were convicted in 2001. Mrs. Hirsch said she supports the Obama administration's decision to prosecute Ahmed Ghailani for that same bombing that took the life of her husband. She said, and I quote:

> I am relieved we are finally moving forward. It is really, really important to me that anyone we have in custody accused of acts related to the deaths of my husband and others be held accountable for what they have done.

Mrs. Hirsch also said she believes it is safe to try Ahmed Ghailani in a Federal court. I quote her again: ''I have some trust in the New York Police Department'' based on her experience at the 2001 trial.

Listen to what she said about the critics of this administration: ''They're just raising fear and alarm.'' This is from the widow of a terrorist bombing where the terrorists have been brought to justice in the courts of our land.

I agree with Susan Hirsch. I have faith in the New York Police Department. I have faith in our law enforcement agencies, I have faith in our courts, and I have faith in our system of justice.

We know how to prosecute terrorists, and we know how to hold them safely. We have living proof in 195 prosecutions since 9/11 and 350 convicted terrorists being held today in America's jails across the United States.

The Graham amendment is not about whether military commissions are superior to Federal courts. The amendment doesn't just express a preference for one over the other. The amendment expressly prohibits this administration and the Department of Justice from trying a terrorist in a Federal court.

The truth is, President Obama may choose to try the 9/11 terrorists in military commissions. That should be the President's decision. If it is his decision that it is in the interests of the security of the United States or in a successful prosecution to turn to a military commission over a regular Federal court in America, that should be the President's decision, the decision of his Attorney General, the decision of the prosecutors, not the decision of Members of the Senate who do not know the facts of the case and don't know the likelihood of prosecution.

Defense Secretary Gates and Attorney General Holder have developed a joint protocol to determine whether individual cases should be tried in Federal courts or commissions. The President worked closely with Congress to reform the military commissions so he would have another lawful tool to use in the fight against terrorism. The two lead cosponsors of the amendment before us, Senator MCCAIN and Senator GRAHAM, who is on the Senate floor, were very involved in that effort, as was Senator LEVIN of Michigan, the chairman of our Armed Services Committee. They sat down to rewrite the rules for military commissions because, frankly, we haven't had a great deal of success with prosecutions of terrorists with military commissions. Only three cases have gone before the Supreme Court, raising issues about military commissions, the standard of justice, due process, and fairness.

Now there is a new effort by President Obama, with the bipartisan help of Members of the Senate. So I am not standing here in criticism of the use of military commissions, but I am standing here taking exception to the point of view that we should preclude prosecutions in any other forum than military commissions of the terrorists of 9/11. President Obama may very well choose to try Khalid Sheikh Mohammad and other terrorists in military commissions. That should be his choice. Let him choose the forum, the most effective forum to pursue justice and to protect America from future acts of terrorism.

In their letter to Senators REID and MCCONNELL, Secretary Gates and Attorney General Holder said it well, and I quote them again:

> We must be in a position to use every lawful instrument of national power, including both courts and military commissions, to ensure that terrorists are brought to justice and can no longer threaten American lives.

The decision may be reached at some future date by the administration, with the concurrence of the Secretary of Defense and the Attorney General, that it is a better forum to move to military commissions for a variety of reasons. They could be issues of national security. They could be issues of evidence.

But do we want to take away from them with this pending amendment the right to make that decision? Why would Congress choose to take away one of these lawful instruments from the President, our Commander in Chief? Don't we want the President to have the use of every lawful tool to bring these terrorists to justice?

One word in closing. I have the greatest respect for the families of 9/11.

Those who have spoken out on behalf of this amendment, I respect them greatly. They have been a force in America since the untimely and tragic deaths of members of their families. They forced on the previous administration a dramatic investigation of 9/11 and where our government had failed and what we could do to improve things. They have become a voice and a force in so many other respects since that awful day of 9/11. But they don't speak with one voice on this issue. Many support the pending amendment; others see it differently.

Susan Hirsch, whose husband was lost in a terrorism bombing in Africa, clearly sees it differently than these survivors of 9/11. With the greatest respect for those who support this amendment, I would say there are others who see this in a much different light.

I urge my colleagues to reject the Graham amendment. It is an unprecedented effort to interfere with the executive branch's prosecutorial discretion and President Obama's genuine efforts to combat terrorism.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I appreciate Senator LEVIN allowing me to speak now. I know we are going back and forth. I appreciate that.

To my friend, Senator DURBIN, it is my honest desire that as we move forward with what to do with Guantanamo Bay, we can find some bipartisanship and close the facility. I am one of the few Republicans who expressed that thought, simply because I have listened enough to our commanders to know—General Petreaus, Admiral Mullen, and others—that Guantanamo Bay has become a symbol for recruitment and propaganda usage against American forces in the war on terror.

It is probably the best run jail in the world right now, to those of us who have been down there. To the ground forces, I wish to acknowledge your patriotism and your service. It is a tough place to do duty because there are some pretty tough characters down there.

At the end of the day, I have tried to be helpful where I could, and I will tell you in a little detail why I am offering this amendment. But my hope was that when President Obama was elected, we could find a way to reform Guantanamo Bay policy, detainee policy, because I have been a military lawyer for 25 years. I do understand detainee policy affects the war effort. If we mess it up, if we abuse detainees, we can turn populations against us that will be helpful in winning the war.

One of the great things that happened in World War II is that we had over 400,000 German prisoners, Japanese prisoners housed in the United States. We took 40,000 hard-core Nazis from the British and put them in American military jails in the United States. So this idea that we can't find a place for 200 detainees in America, I don't agree with. We have done that before. These people are not 10 feet tall. They are definitely dangerous, but as a nation I believe we could start over.

By closing Guantanamo Bay in a logical, rational way, we would be improving our ability to effect the outcome of the war in the Mideast because we would be taking a tool away from the enemy.

President Obama and Senator MCCAIN both, when they were candidates, agreed with the idea of closing Guantanamo Bay and reforming interrogation policy.

To most Americans, it is kind of: Why are we worried about what we do with these guys, because they would cut our heads off. You are absolutely right. It is not lost upon me or any other military member out there that the enemy we are dealing with knows no boundaries and they are barbarians and brutal.

The question is not about them but about us. The fact that we are a civilized people is not a liability, it is an asset. So when you capture a member of al-Qaida, I have always believed it becomes about us, not them. We need interrogation techniques that will allow us to get good intelligence and make the country safe. We need to understand we are at war, and the people we are dealing with are some of the hardest, meanest people known since the Nazis.

But if you try to say, in the same breath, that anything goes to get that information, it will come back to haunt you. So some of the interrogation techniques we have used that come from the Inquisition got us some information, but I can assure you it has created a problem. Ask anybody in the Mideast who has to deal with America. They will tell you this has been a problem. You don't need to do that to protect this country. You can have interrogation techniques that get you good information but also adhere to all your laws.

As to the trials, some people wonder: Why do we care about this? They wouldn't give us a trial. You are absolutely right. The fact that our country will give the worst terrorist in the world a trial with a defense attorney, for free; a judge who is going to base his decision on facts and law and not prejudice; a jury, where the press can show up and watch the trial; and the ability to appeal the result, makes us stronger, not weaker. So count me in for starting over with Guantanamo Bay, with a new legal process that recognizes we have had abuses in the past and we are going to chart a new course.

Regarding the Military Commission Act that just passed the Congress, I wish to say publicly that Senator LEVIN was a great partner to work with. The military commission system we have in place today has been reformed. I think it is a model justice system that I will put up against any in the world, including the International Criminal Court at the Hague, in terms of due process rights for detainees. It also recognizes we are at war. This military commission system, while transparent, with the ability to appeal all verdicts to the civilian system, has safeguards built in it to recognize we are at war and how you handle evidence and access the evidence and intelligence sources are built into that military system that are not built into civilian courts.

Since this country was founded, we have historically used military commissions as a venue to try suspected war criminals caught on battlefields. Why have I brought forth this amendment? I have been told by too many people, with reliable access, that the administration is planning on trying Khalid Shaikh Mohammed—the mastermind of 9/11, the perpetrator of the attacks against our country in Washington, Pennsylvania, and New York—in Federal court in the lower district of Manhattan. If that is true, you have lost me as a partner.

Why do I say that? It would be the biggest mistake we could possibly make, in my view, since 9/11. We would be giving constitutional rights to the mastermind of 9/11, as if he were any average, everyday criminal American citizen. We would be basically saying to the mastermind of 9/11, and to the world at large, that 9/11 was a criminal act, not an act of war.

I do believe in prosecutorial discretion and executive branch discretion. I introduced this amendment reluctantly but with all the passion and persuasion I can muster to tell my colleagues: Act now, so we will get this right later. Congress said we are not going to fund the closing of Gitmo. Well, is Congress meddling in the ability of the Commander in Chief to run a military jail? Hell, yes, because we don't know what the plan is. We have an independent duty as Members of Congress to make sure there is balance. This Nation is at war. It is OK for us to speak up. As a matter of fact, it has been too much passing—too many passes during the Bush administration, where Congress sort of sat back and watched things happen. Don't watch this happen. Get on the record now, before it is too late, to tell the President we are not going to sit by as a body and watch the mastermind of 9/11 go into civilian court and criminalize this war. If he goes to Federal court, here is what awaits: a chaos zoo trial.

Yes, we have taken people into Federal court before for acts of terrorism. We took the Blind Sheik—the first guy to try to blow up the World Trade Center—and put him in civilian court. We treated these people as common criminals. What a mistake we made. What if we had treated them as warriors rather than a guy who robbed a liquor store? Where would we have been in 2001 if we had the foresight in the 1990s to recognize that we are at war and these people are not some foreign criminal cartel; they are warriors bent on our destruction who have been planning for

years to attack this country and are planning, as I speak, to attack us again?

We are not fighting crime. We are fighting a war. The war is not over. What happened in the Blind Sheik trial? Because it was a civilian court, built around trying common criminals, the court didn't have the protections military commissions will have to protect this Nation's secrets and classified information. As a result of that trial, the unindicted coconspirator list was provided to the defense as part of discovery in a Federal civilian criminal court. That unindicted coconspirator list was an intelligence coup for the enemy. It went from the defense counsel, to the defendant, to the Mideast. Al-Qaida was able to understand, from that trial, whom we were looking at and whom we had our eye on.

During the 1990s, we tried to treat these terrorist warriors as just some other form of crime. It was a mistake. Don't repeat it. If you take Khalid Shaikh Mohammed, the mastermind of 9/11, and put him in Federal civilian court, you will have learned nothing from the 1990s. You will have sent the wrong signal to the terrorists and to our own people.

Judge Mukasey, who presided over the Blind Sheik trial, wrote an op-ed piece about how big a mistake it would be to put the 9/11 coconspirators into Federal court. He went into great detail about the problems you would have trying these people in a civilian court. He became our Attorney General. So if you don't listen to me, listen to the judge who presided over the trial in the 1990s.

I don't know what they are going to do in the Obama administration. If I believed they were going to do something other than take Khalid Shaikh Mohammed to Federal court in New York, I would not introduce this amendment. I know this is not a cavalier thing to do. I have taken some grief for trying to help the President form new policies with Guantanamo Bay and reject the arguments made by some of my dear friends that these people are too dangerous to bring to the United States. We can find a way to bring them to the United States; we just have to be smart about it.

To our military men and women who will be administering the commission, my biggest fear has always been that the military commission system will become a second-class justice system. Nothing could be further from the truth. The men and women who administer justice in the military commission system are the same judge advocates and jurors who administer justice to our own troops. The Judge Advocate General of the Navy said the new military commission system is such that he would not hesitate to have one of our own tried in it.

We will gain nothing, in terms of improving our image, by sending the mastermind of 9/11 to a New York civilian court, giving him the same constitutional rights as anybody listening to me in America who is a citizen. The military commission system will be transparent. He will have his say in court. He will have the ability to appeal a conviction to our civilian judges. He will be defended by a military lawyer—or private attorney, if he wants to be. He will be presumed innocent until found guilty. It will be required by the ''beyond a reasonable doubt'' standard for him to be found guilty of anything.

For those who are wondering about military commissions, I can tell you the bill we have produced I will put up against any system in the world. To those who think it is no big deal to send Khalid Shaikh Mohammed to Federal court, I could not disagree with you more. What you will have done is set in motion the dynamic that led to criminalizing the war in the 1990s. You will have lost focus, yet again. You will have been lured into the sense that we are not at war, that these are just a bunch of bad people committing crimes. The day we take the mastermind of 9/11 and put him in Federal court, who the hell are you going to try in the military commission? How can you tell that detainee you are an enemy combatant, you are a bad guy? You are at war, but the guy who planned the whole thing is just a common criminal. What a mistake we would make.

It is imperative this Nation have a legal system that recognizes we are at war and that we have rules to protect this country's national security balance against the interests and the rights of the accused detainee. The military commission forum has created that balance. It is a system built around war, a system built around the rules of military law, a system that recognizes the difference between a common criminal and a warrior, a system that understands military intelligence is different than common evidence. If we do not use that system for the guy who planned 9/11, we will all regret it.

My amendment is limited in scope. It is a chance for you, as a Member of the Senate, to speak up about what you would like to see happen as this Nation moves forward and our desire to correct past mistakes and defend this Nation, which is still at war this very day. It is a chance for you to have a say, on behalf of your constituents, as to how they would like to see this Nation defend itself.

I argue that most Americans—not just the 9/11 families—would be very concerned to learn that the man who planned the attacks that killed 3,000 of our fellow citizens—who would do it again tomorrow—is going to be treated the same as any other criminal. No good will come from that. You will have compromised the military commission system beyond repair. You will have adopted the law enforcement model that failed us before, and we will not be a better people.

I, along with Senator LEVIN, was at Guantanamo Bay the day Khalid Shaikh Mohammed appeared before the Combat Status Review Tribunal. We were in the next room. We listened on a monitor. You could see him and could hear the chains rattle next door when he went through great detail about 9/11 and all the other acts of terrorism he planned against our country.

I never will forget when he told the military judge that he was a high-ranking commander in the al-Qaida military organization and he appreciated being referred to as a military commander. Some would say: You don't want to elevate this guy. What I would say is you want to understand who he is. If you think he is a common criminal, no different than any other person who wants to hurt people, you have made a mistake.

Khalid Shaikh Mohammed is bent on our destruction. He did not attack us for financial gain. He attacked us because he hates us. He is every bit as dangerous as the Nazis. These people we are fighting are very dangerous people. I am insistent they get a trial consistent with our values, that they do not get railroaded, that they get a chance to defend themselves. The media will see how the trial unfolds and you can see most of it, if not all of it. But I am also insistent that we not take our eye off the ball. It has been a long time since we have been attacked. For a lot of people—those who were on the front lines of 9/11—they relive it every night. It replays itself over and over every night of their lives.

For the rest of us, please do not lose sight of the fact that this country is engaged in an armed conflict with an enemy that knows no boundaries, has no allegiance to anything beyond their radical religion, and is conspiring to attack us as I speak.

When we try them, we need to understand that the trial itself is part of the war effort. How we do the trial can make us safer or it can make us weaker. If we criminalize this war, it would take the man who planned the attacks of 9/11 and put him in civilian court. It is going to be impossible with a straight face to take somebody under him and put him in a military court. And the day you put him back in civilian court, you are going to create the problems Judge Mukasey warned us against. You are going to have evidence compromised and you are going to regret it.

I hope to continue to work with the administration to find a way to close Guantanamo Bay, to create a transparent legal system that will allow every detainee their day in court, due process rights they deserve based on our law, not based on what they have done but based on who we are as a people.

The 20th hijacker said this in Federal court—the victims were allowed to testify about the impact of 9/11. They had a U.S. Navy officer talking about being at the Pentagon and the impact on her

life and on her friends. During the testimony, the officer started to cry. Here is what the defendant said, Moussaoui, the 20th hijacker:

I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military.

It was a Navy female officer.

She should expect that the people who are at war with her will try to kill her.

This is the 20th hijacker in civilian court:

I will never, I will never cry because an American bombed my camp.

If you have any doubt that we are at war, the one thing you ought to be certain of, they have no doubt that they are at war with us.

The one thing the men and women who go off to fight this war should expect of their government and of their Congress is to watch their back the best we can. We would be doing those men and women a great disservice if we put the mastermind of 9/11, who killed the friends of this Navy officer, in a civilian court that could lead to compromising events that would make their job harder. We would be doing them a disservice to act on our end as if we are not at war.

Mr. President, I say to my colleagues, they have a chance to speak. They have a chance to be on the record for their constituents to send a signal that needs to be sent before it is too late. Here is what I ask them to say with their vote: I believe we are at war and that the legal system we are going to use to try people who attacked this country and killed 3,000 American citizens should be a military legal system, consistent with us being at war. I will not, with my vote, go back to the law enforcement model that jeopardized our national security back in the nineties. I will insist that these detainees have a full and fair trial and that they be treated appropriately. But I will not, with my vote, take the mastermind of 9/11, the man who planned the attacks, who would do it tomorrow, and give him the same constitutional rights as an average, everyday American in a legal system that is not built around being at war.

If they will say that, we will get a good outcome. If they equivocate, we are slowly but surely going to create a legal hodgepodge that will come back to haunt us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the amendment that has been sponsored by Senators GRAHAM, MCCAIN, LIEBERMAN, and WEBB is wrong and it is unnecessary. It would, as Senator GRAHAM said, prohibit the prosecution of any individual suspected of involvement with the September 11 attacks against the United States from being tried in our article III courts.

The idea that we cannot try a terrorist and mass murderer in our courts is beneath the dignity of this great country. Timothy McVeigh was one of the greatest mass murderers this Nation has ever known and we had no difficulty trying him and convicting him and executing him using our laws and our article III courts.

The real intent of this amendment is clear, to ensure that the detainees held at Guantanamo Bay, some who have been held for years without charge, can only be tried by military commissions.

As a former prosecutor, I find it deeply troubling that the Senate would be asked to prohibit the administration from trying even dangerous terrorists in our Federal courts. These Senators should not use an amendment that politicizes decisions about significant prosecutions as a backdoor to require the use of military commissions.

The administration has worked hard to revise the military commissions to make sure that they meet constitutional standards. However, their use has been plagued with problems and repeatedly overturned by a conservative Supreme Court.

In contrast, our Federal courts have a long and distinguished history of successfully prosecuting even the most atrocious violent acts, and they are respected throughout the world. When we use our Federal courts, the rest of the world recognizes that we are following over 200 years of judicial history of the United States of America. We earn respect for doing so.

The administration strongly opposes this amendment. In a letter to the Senate leadership the Secretary of Defense, Robert Gates, and the Attorney General of the United States, Eric Holder, warn that this amendment would ''set a dangerous precedent'' by directing the Executive Branch's prosecutorial determination.

They also point out this amendment would prohibit them from being able to ''use every lawful instrument of national power . . . to ensure that terrorists are brought to justice and can no longer threaten American lives.''

If we really want to stop terrorists, if we really want to make sure they pay for their crime, why would we block off any of the avenues available to us? Two senior administration officials, individuals directly responsible for the disposition of these detainees, are telling us not to tie their hands in the fight against terrorism. This Senator is listening to them, and I believe all Senators should listen to them.

There has been an outpouring of opposition against this amendment including by numerous human rights groups such as Human Rights First, the National Institute of Military Justice, Constitution Project and Amnesty International.

We have also seen a strong public declaration in support of trying terrorism offenses in Federal courts, signed by a bipartisan group of former Members of Congress, high-ranking military officials and judges.

The Senate Judiciary Committee has held several hearings on the issue of how best to handle detainees. Experts and judges across the political spectrum have agreed that our criminal justice system can handle this challenge and indeed has handled it many times already.

We are a nation that fought hard to have a strong, independent judiciary, with a history of excellence. Do we now want to say to the world that in spite of all of our power, our history, our strong judiciary, that we are not up to trying those who struck us in our traditional federal courts? I think we should say just the opposite, that we can and will prosecute these people in a way that will gain the respect of the whole world and protect our nation. Republican luminaries, such as General Colin Powell, have agreed with this idea.

In fact, one of the things we tend to forget is since January of this year alone, over 30 terrorism suspects have been successfully prosecuted or sentenced in Federal courts. Those federal courts have sentenced individuals directly implicated by this amendment, such as Zacarias Moussaoui.

If this amendment were law Moussaoui, the so called ''20th hijacker'' who was directly involved in the planning of September 11, would not have been convicted by our federal courts and sentenced to life in prison. This amendment takes away one of the greatest tools we have to protect our national security—the ability to prosecute suspects in Federal court. Instead, as the Justice Department has said in its opposition to it, the Graham amendment would make it more likely that terrorists will escape justice.

I believe as strongly as all Americans do that we should take all steps possible to prevent terrorism, and we must ensure severe punishment for those who do us harm. As a former prosecutor, I have made certain that perpetrators of violent crime receive serious punishment. I also believe strongly that we can ensure our safety and security, and bring terrorists to justice, in ways that are consistent with the laws and the values that make us a great democracy.

The administration has said where possible they will try individuals in Federal courts. When we unnecessarily preempt that option, we are saying we do not trust the legal system on which we have relied for so long. All that does is give more ammunition to our enemies. It further hurts our standing around the world, a standing which has already suffered so much from the stain of Guantanamo Bay. Worse still it sends the message to other countries that they do not have to use traditional legal regimes with established protections for defendants if they are prosecuting American soldiers or civilians.

Just as partisan Republicans were wrong in trying to hold up the confirmation of Attorney General Holder to extort a pledge from him that he would not exercise independent prosecutorial judgment—something I have never seen done before in 35 years here—it is also wrong to force an amendment politicizing prosecutions in the Commerce-Justice-Science appropriations bill. I opposed the effort by some Republican Senators who wanted the Nation's chief prosecutor to agree in advance to turn a blind eye to possible lawbreaking before even investigating whether it occurred. Republicans asked for such a pledge, a commitment that no prosecutor should give. To his credit, Eric Holder didn't give that pledge.

Passing a far-reaching amendment that takes away a powerful tool from the Justice Department in bringing terrorists to justice and usurps the Attorney General's constitutional responsibilities is not the path forward. All administrations should be able to decide who to prosecute and where they should be prosecuted. This amendment denies us the benefit of using not only our Federal courts, with their successful track record convicting terrorists, but also from using our Federal laws, which are arguably more expansive and better suited for use in terrorism cases than the narrower set of charges that can be brought in a military commission. We should not tie the hands of our law enforcement in their efforts to secure our national security. Any former prosecutor, any lawyer and any citizen should know it is not the decision of or an appropriate role for the United States Senate.

It is time to act on our principles and our constitutional system. Those we believe to be guilty of heinous crimes should be tried, and when convicted, punished severely. Where the administration decides to try them in Federal courts, our courts and our prisons are more than up to the task. I agree with the Justice Department that this amendment ''would ensure that the only individuals in the world who could not be prosecuted under the criminal terrorist offenses Congress has enacted would be those who are responsible for the most devastating terrorist acts in U.S. history.'' That means that the only people in the world who could not be prosecuted under our terrorism laws are the people who committed the most devastating terrorist acts against us. That is Alice in Wonderland justice. It makes no sense to have tough terrorism laws, to have the best judicial system in the world and then, when terrorist acts are committed against us, to simply ignore that system and decide we cannot use it to prosecute those acts. It makes no sense.

Let us put aside heated and distorted rhetoric and support the President in his efforts to truly make our country safe and strong and a republic worthy of the history and values that have always made America great.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Michigan.

Mr. LEVIN. Madam President, I very much oppose the Graham amendment, and I want to take a few moments to explain why.

It has been argued that we are at war. Indeed, we are. I can't think of anything clearer, that any of us in this country understands than we are at war. And being at war, it totally mystifies me why we would deny ourselves one of the tools that we could use against people who are attacking us, who have attacked us, who will attack us, who will kill us, who kill innocent people. Why would we deny ourselves one of the tools which are available to try these people, to lock them up, or execute them and throw away the key? Why we would, by law, say this particular group of people can't be tried in a Federal court, that they can only be tried in a military commission, when we have tried so many terrorists in court, convicted them and executed them, is something I do not understand.

I believe we ought to not only throw the book at these people, but I think we ought to throw both books at these people. Why limit ourselves to one book—the book that sets the procedures for military commissions? Why do we deny ourselves the opportunity, if it is more effective—for whatever reasons the Justice Department determines it is more effective—to prosecute in a Federal court? Why would we deny them that?

In fact, under this amendment, they could not even continue the prosecution they had begun. The language of the amendment says either ''to commence or continue the prosecution in an Article III court.'' So the question isn't whether these are the most dangerous people around—they are.

I also went down to Guantanamo. I went with Senator GRAHAM, and we watched the proceeding against Khalid Shaikh Mohammed. I want us to use all of the tools. I want them all to be available. I want the Justice Department to be able to determine which is more effective, and not for us to decide in a political setting, in a legislative setting, that they cannot use one of the tools which has been proven to be effective against dozens of terrorists.

What about the law of war? What about war crimes? The argument is these are war crimes. As far as I am concerned, they are crimes; they are war crimes—both. War crimes can be prosecuted in an article III court. Let me repeat that because the argument is these are war crimes. War crimes can be prosecuted in an article III court under our laws that we adopted about 10 or 15 years ago. So Khalid Shaikh Mohammed needs to be given justice. He needs to be dealt with as strongly as we possibly can and as effectively as we possibly can. I believe he was the mastermind of 9/11. I don't think there is a Member of this body that would not want to see him dealt with as strongly as can possibly be done. But I don't know why we would tell the Justice Department that they only can consider one of the two tools that they could use against him; that they only can consider the military commissions but they can't consider article III courts.

I have been deeply involved in rewriting the military commissions law. That law, when we first wrote it, was defective, and I argued against it because it was defective. This body adopted it. That is the way things work. The majority decided to go with it. It was not usable. So we took a major step in the last few months to revise the military commissions law. I helped to lead that effort, and I know how important it is. But it was never our intent to make that the exclusive remedy for people who would attack us or attack this country. We want that remedy to be available if that is the most effective remedy. But there is nothing in that law that we wrote, or intended, that said this would displace article III courts if the Justice Department decided the most effective place to try an alleged terrorist was an article III court.

Are we actually, on the floor of the Senate, going to decide which terrorists should be tried in article III courts and which ones should be tried in military commission courts? Why would we tie the hands of the Justice Department in that way?

I know Senator GRAHAM feels very strongly these should be tried in front of military commissions, and if he were the Justice Department, or if he were the Attorney General, he may make that decision, assuming he knows all the facts that go into the decision. He may make that decision, and he could strongly recommend it to the Justice Department. But why would we decide to displace the discretion of the Justice Department is a mystery to me. I find it unacceptable.

More importantly, the Attorney General and the Secretary of Defense find it unacceptable. They have urged us not to do this. They have written our leaders—Senator REID and Senator MCCONNELL—opposing the Graham amendment.

They say in their letter that there is a joint prosecution protocol, and the departments are ''currently engaged in a careful case-by-case evaluation of the cases of Guantanamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.''

That is the Attorney General of the United States and the Secretary of Defense. Can we truly say in the Senate that we are going to displace that process which will determine what is the

most effective way to prosecute these people? Can we and should we do that? I hope not.

They end their letter of October 30 by saying the following:

> The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

If we adopt the Graham amendment, we are saying no; we are only going to use one instrument of national power. We are not going to consider both instruments of national power, and that is truly not only limiting our options but tying one of our hands behind our back in the essential prosecution of these people.

Madam President, Zacarias Moussaoui, the so-called 20th hijacker, was convicted in Federal court in May of 2006 for conspiring to hijack aircraft and crash them into the World Trade Center. He was quoted by Senator GRAHAM as saying that ''we are at war with you people.'' I don't have the slightest doubt that he means it and if he were ever released he would go back to war.

But I also have no doubt about something else. He was saying this in a Federal court, after being convicted in a Federal court of the terrorist acts that he perpetrated. He is now in a supermax facility in Florence, CO. He is serving life imprisonment without parole. If the Graham amendment had been in place at the time that Moussaoui was being prosecuted—indeed, if the Graham amendment had come in the middle of that prosecution—the prosecution would have had to have been suspended.

This amendment, if it is adopted, is going to make it more difficult to bring some of the 9/11 terrorists to justice. Let me share some of the reasons this possibility exists.

A court could decide that one of the 9/11 detainees does not meet the test, under the military commissions law, of being an ''unprivileged enemy belligerent.'' In particular, a court could decide that one of the 9/11 alleged terrorists did not participate in a ''hostility'' and therefore was not subject—a belligerent subject to the laws of war. So we are saying to the Justice Department: If you see the possibility that someone could be let out or somebody could be found not guilty based on that kind of a technicality, we are not going to let you go and try that person in a Federal court. You must try that person where that person could escape justice based on a technicality.

Why would we want to do that? How can we possibly sit here and reach a judgment on all of the possible factual situations which might allow one of these people to escape justice? We cannot do that. That is what prosecutors are for. That is what a Justice Department is for. We should be giving them tools, not denying them tools. We should be handing them every possible tool we can give them to prosecute these people instead of saying you can't use this tool or you can't use that tool.

A court could decide that the crimes committed by one of the 9/11 detainees is not justiciable under the Military Commissions Act. So therefore we are going to say you have to prosecute him there anyway? A court could decide that an offense under the Military Commissions Act cannot be retroactively applied to an offense that took place before the enactment of the act. In our language, they can be tried even though it is a retroactive application. What happens if that occurs and then a court comes along, a court of appeals following a military commission, and says: No, you can't do that. Why would we not want the Justice Department to be able to weigh all of these possible escape loopholes that a defendant could use and decide that they have a better chance of convicting somebody and making that conviction stick if they proceed in an article III court?

Maybe the procedural rights which we have written into our Military Commissions Act, which is now law—maybe a court will determine they are not adequate. Maybe they will throw out the entire process despite our best efforts to correct what we had previously done. We should not presume the outcome of the judicial process and throw away legal tools that may be needed to bring the 9/11 terrorists to justice. We should not be tying the hands of our prosecutors against these people.

Prosecutorial discretion is one of the cornerstones of the American judicial system. It is wrong for us to be limiting that discretion by directing cases to a particular forum. It denies our prosecutors the ability to choose the forum that is best suited to a successful outcome in the case. The mechanism of cutting off funds for a prosecution, which is what this amendment does because Congress believes that a prosecution should take place in one forum or another, would set a terrible precedent. We should not be intervening in that kind of decision through the appropriations act.

The determination of the proper forum for the trial of 9/11 terrorists should be made by the professional prosecutors based on the circumstances of the case and their judgment as to where is the best chance to gain a successful prosecution. We should not decide where these cases are going to be tried. I don't believe we should presume they will be tried in one place or another.

There is a process underway, including both the Defense Department and the Justice Department, to make a determination as to which will be the most effective place to try these terrorists. So that is the appropriate process, and we ought to let it continue without this kind of intervention by the Senate.

Before I yield the floor and suggest the absence of a quorum, I ask unanimous consent to have printed in the RECORD the letter from the Attorney General and the Secretary of Defense to Senators REID and MCCONNELL.

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

OCTOBER 30, 2009.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATORS REID AND MCCONNELL: We write to oppose the amendment proposed by Senator Graham (on behalf of himself and Senators McCain and Lieberman) to H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2010. This amendment would prohibit the use of Department of Justice funds ''to commence or continue the prosecution in an Article III court of the United States of an individual suspected of planning, authorizing, organizing, committing, or aiding the attacks on the United States and its citizens that occurred on September 11, 2001.''

As you know, both the Department of Justice (in Article III courts) and the Department of Defense (in military commissions, reformed under the 2010 National Defense Authorization Act) have responsibility for prosecuting alleged terrorists. Pursuant to a joint prosecution protocol, our departments are currently engaged in a careful case-by-case evaluation of the cases of Guantánamo detainees who have been referred for possible prosecution, to determine whether they should be prosecuted in an Article III court or by military commission. We are confident that the forum selection decisions that are made pursuant to this process will best serve our national security interests.

We believe that it would be unwise, and would set a dangerous precedent, for Congress to restrict the discretion of either department to fund particular prosecutions. The exercise of prosecutorial discretion has always been and should remain an Executive Branch function. We must be in a position to use every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives.

For these reasons, we respectfully request that you oppose this amendment.

ROBERT M. GATES,
Secretary of Defense.
ERIC H. HOLDER, JR.,
Attorney General.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Madam President, most Americans recognize that our continued success in preventing another terrorist attack on U.S. soil depends on our ability as a Nation to remain vigilant and clear-eyed about the nature of the threats we face at home and abroad.

Some threats come in the form of terror cells in distant countries. Others

come from people plotting attacks within our own borders.

And still others can come from a failure to recognize the distinction between everyday crimes and war crimes.

This last category of threat is extremely serious but sometimes overlooked—and that is why Senators GRAHAM, LIEBERMAN, and MCCAIN have offered an amendment to the Commerce, Justice and Science appropriations bill that would reassure the American people that the Senate has not taken its eye off the ball.

The amendment is simple and straightforward. It explicitly prohibits any of the terrorists who were involved in the September 11, 2001, attacks from appearing for trial in a civilian U.S. courtroom. Instead, it would require the government to use military commissions; that is, the courts proper to war, for trying these men.

By requiring the government to use military commissions, the supporters of this amendment are reaffirming two things: First, that these men should have a fair trial.

And second, we are reaffirming what American history has always showed; namely, that war crimes and common crimes are to be tried differently—and that military courts are the proper forum for prosecuting terrorists.

Some might argue that terrorists like Zacarias Moussaoui, one of the 9/11 conspirators, are not enemy combatants—that they are somehow on the same level as a convenience store stick-up man. But listen to the words of Moussaoui himself. He disagrees.

Asked if he regretted his part in the September 11 attacks, Moussaoui said: ''I just wish it will happen on the 12th, the 13th, the 14th, the 15th, the 16th, the 17th, and [on and on].'' He went on to explain how happy he was to learn of the deaths of American service men and women in the Pentagon on 9/11. And then he mocked an officer for weeping about the loss of men under her command, saying:

> I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military. She should expect that people who are at war with her will try to kill her. I will never cry because an American bombed my camp.

There is no question Moussaoui himself believes he is an enemy combatant engaged in a war against us.

The Senate has also made itself clear on this question. Congress created the military commissions system 3 years ago, on a bipartisan basis, precisely to deal with prosecutions of al-Qaida terrorists consistent with U.S. national security, with the expectation that they would be used for that purpose.

The Senate reaffirmed this view 2 years ago when it voted 94–3 against transferring detainees from Guantanamo stateside, including the 9/11 planners.

We reaffirmed it again earlier this year when we voted 90–6 against using any funds from the war supplemental to transfer any of the Guantanamo detainees to the United States.

And just this summer the Senate reaffirmed that military commissions are the proper forum for bringing enemy combatants to justice when we approved without objection an amendment to that effect as part of the Defense authorization bill.

Further, our past experiences with terror trials in civilian courts have clearly been shown to undermine our national security. During the trial of Ramzi Yousef, the mastermind of the first Trade Center bombing, we saw how a small bit of testimony about a cell phone battery was enough to tip off terrorists that one of their key communication links had been compromised.

We saw how the public prosecution of the Blind Sheikh, Abdel Rahman, inadvertently provided a rich source of intelligence to Osama bin Laden ahead of the 9/11 attacks. And in that case, we remember that Rahman's lawyer was convicted of smuggling orders to his terrorist disciples.

We also saw how the trial of Zacarias Moussaoui resulted in the leak of sensitive information.

And we saw how the trials of the East African Embassy bombers compromised intelligence methods to the benefit of Osama bin Laden.

The administration calls these prosecutions ''successful.'' But given the loss of sensitive information that resulted, former Federal judge and Attorney General Michael Mukasey has noted ''there are many words one might use to describe how these events unfolded; 'successfully' is not among them.''

Trying terror suspects in civilian courts is also a giant headache for communities; just look at the experience of Alexandria, VA, during the Moussaoui trial. As I have pointed out before, parts of Alexandria became a virtual encampment every time Moussaoui was moved to the courthouse. Those were the problems we saw in Northern Virginia when just one terrorist was tried in civilian court. What will happen to Alexandria, New York City, or other cities if several terrorists are tried there? You can imagine.

It is because of dangers and difficulties like these that we established military commissions in the first place. The administration has now rewritten the military commission procedures precisely to its liking. If we can't expect the very people who masterminded the 9/11 attacks and went to war with us to fall within the jurisdiction of these military courts, then who can we expect to fall within the jurisdiction of these military courts?

The American people have made themselves clear on this issue. They do not want Guantanamo terrorists brought to the U.S., and they certainly do not want the men who planned the 9/11 attacks on America to be tried in civilian courts—risking national security and civic disruption in the process.

Congress created military commissions for a reason. But if the administration fails to use military commissions for self-avowed combatants like Khalid Sheikh Mohammed, then it is wasting this time-honored and essential tool in the war on terror.

I would ask the opponents of the Graham amendment the following: what material benefit is derived by bringing avowed foreign combatants like KSM into a civilian court and giving them all the rights and privileges of a U.S. citizen; and why should we further delay justice for the families of the victims of 9/11?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Madam President, I rise with some regret because I am in a contradiction with our President and with many members of my own caucus. I am a cosponsor of the Graham amendment. I have no regrets about cosponsoring the amendment. I do regret that I am in contradiction with a number of my colleagues on this side.

I believe this is an appropriate amendment. I believe it is the best way for us to move forward and bring a solution with respect to those who are detained in Guantanamo.

I would start by saying I have consistently argued that the appropriate venue for trying perpetrators of international terrorism who are, in fact, enemy combatants is a military tribunal. One of my primary focuses in my time in the Senate has been to work toward a fairer and more efficient criminal justice system in the United States.

As all my colleagues know, we have an enormous backlog in many court systems right now. Prisons are overcrowded. We have 2.3 million people in prison right now, 7 million people inside the criminal justice system. The process of trying enemy combatants in our already overburdened domestic courts, on the one hand, is not necessary and, on the other, would introduce major logjams and work against our goals of improving our criminal justice system.

As someone who served in the military, has spent 5 years in the Pentagon, and is privileged to serve in this body, I would like to say, in my view, the Guantanamo Bay detainee situation is challenging, it is complicated, it involves balancing an entire host of considerations, including national security, constitutional due process requirements, international law, procedural and practical considerations, and the responsibilities and authority of all three branches of government.

Given the complicated nature of this situation, I believe it is very important for us to move forward with a careful and considered approach. These are among the considerations we should be looking at: First, the Supreme Court has reviewed this issue a number of times and, in several cases, has given clear guidance on due process requirements.

Second, taking into consideration these Supreme Court's decisions, Congress enacted new procedures for military tribunals. These new pressures, which were included in the recently passed Defense authorization bill, contain safeguards that protect detainees' due process and habeas rights.

President Obama, as a Senator, took part in the creation of these new procedures. President Obama signed these new procedures into law. Additionally, the facilities for properly holding and trying dangerous detainees who are, in fact in many cases, enemy combatants, exist at the cost of approximately millions of dollars in Guantanamo.

The Guantanamo debate has, in my view, improperly focused on place versus process over the past couple of years. The most important factor has been to improve the process as we consider these different cases, not simply whether this was Guantanamo or anywhere else.

Removing our detainees from Guantanamo to the United States is not going to solve the problem. The improved processes we have put in place is one of the key factors in addressing the problem.

The people we are seeking to prosecute—I think it needs to be said again and again—are enemy combatants. They were apprehended during a time of war, while hostilities are still ongoing. Prosecuting these individuals in domestic courts gives rise to a host of problematic issues which are basically unnecessary because of the availability now of properly constituted military tribunals.

The problems with trying alleged detainees in domestic courts include: procedural, constitutional, and evidentiary rules in place to protect civilian criminal defendants in our country. These protections would require the production of classified materials. It could require military and intelligence officers to be called from other duties, in some cases from the battlefield, to testify.

This could lead to the exposure of sensitive material or, alternatively, to acquittal of enemy combatants who are guilty of these crimes. In the U.S. legal system, when a defendant is acquitted he goes free. In this complex scenario, it is unclear what will happen in our domestic judicial system if one of those enemy combatants is actually acquitted.

This mixing of the legal and military paradigms, I believe, would confuse our criminal justice system without a real upside. The burden of trying enemy combatants in a domestic court is overwhelming. Other people have mentioned this. There is an issue, of course, of maintaining security for the courtroom and for the jail facilities: the additional security burdens to the U.S. Marshals Service and to local police services, the security and procedural complexities would tie up our court system at a time when we need to move criminal cases forward.

I think it is very important for the understanding of this body, that while this amendment only applies to six detainees at Guantanamo Bay, it is long past time that we work to reach a consensus on how and where all these detainees are going to be tried and/or held. The administration has consistently talked about three different categories of detainees: Those who have been found not to be a threat to the United States and can be released and a number of them have; those who are a threat and can be prosecuted, which takes up most of our discussion, but, importantly, a third group is those who we have reason to believe will continue to be a threat to the United States, but we may not have sufficient admissible evidence to bring them to trial. That is the category that is the most troubling when we start talking about moving these detainees from Guantanamo Bay to the United States.

Every Member of this body should be concerned with the implications of confining such individuals indefinitely inside the United States without due process. I took the time, after a number of discussions, including a long discussion with the President about this, to read the Hamdi case, the Supreme Court case that deals with indefinite detention of detainees.

There is a conundrum here, if you think about the reality of what we are doing. If you bring these people into the United States and do not try them, you are going to put them in a civilian prison. There are only two possibilities here: either as legally here in the United States they have to be given a speedy trial or, as enemy combatants, we do not have to give them a speedy trial until the end of hostilities. How do we define the end of hostilities? We are simply going to be importing a problem, affecting about 50 people at Guantanamo, from Guantanamo into the United States.

Again, it is not the place, it is the process. Ten years from now, fifteen years from now we don't want to find ourselves saying: There is an individual in a super-max prison somewhere in Illinois who has never been charged with a crime.

Why do we need to bring that into our system? Why do we need to bring that into our country? We have to commit ourselves to examining that issue in detail and figure out a way to move forward. I am committed to working with the administration. I have said this to the President in the past and to Members of this body, we need to move forward and develop a final trial and detention plan.

But the bottom line is, we are a nation at war. The Supreme Court has outlined due process rights for detainees. Guantanamo Bay is the appropriate facility for holding the enemy belligerents, particularly since we just passed these improvements in the Military Commissions Act. I hope this body will think seriously about the implications of bringing large numbers of Guantanamo Bay detainees into the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I see the Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I will be speaking for only 4 or 5 minutes. I see Senator DEMINT. I ask unanimous consent that I follow him. But I will be considerably briefer than Senator WEBB.

Mr. DEMINT. I would be happy to let the Senator from Rhode Island go first, as long as I can follow him.

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

The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I appreciate the Senator's courtesy. I wish to take a different view than our distinguished colleague from Virginia. He comes from a military background and he views this from that lens. I come from a prosecutor's and lawyer's background. I see it through a different lens.

I take exception to a number of the concerns the distinguished Senator from Virginia elucidated. My concern is, the balancing of those concerns and the determination as to on which side, military commissions or traditional law enforcement prosecution, the government should come down on is one that should not be a legislative determination.

We have executive officials who are very capable of making this determination. It is at the soul of prosecutorial discretion to decide whom to charge, what to charge, and in what forum to bring the charge. I think we are in the wrong location, trying to inject ourselves as the legislative branch of government into the executive determination as to where a case should be brought.

It may very well be that a great number of these cases should indeed be brought in military commissions. But I do not think it is up to us as Members of the Senate to force the executive branch's hands.

A second point is, we have had very bad luck with these military commissions so far. Many believe the procedures for those commissions did not afford adequate process to the accused, and, as a result, the perceived legitimacy of the commissions was undermined. That is the finding of the Detention Policy Task Force.

Some of those shortcomings have been improved upon recently. But we are in a stage, at this point, in which article III courts—the Federal American courts—have handled 119 terrorism cases with 289 defendants. Of those, 75 cases are still pending in our courts, but 195 defendants have been convicted. Our conviction rate has been 91 percent.

Our Bureau of Prisons currently holds 355 terrorists in its facilities, by it is own estimation, 216 international

terrorists, and 139 domestic terrorists. So regular, traditional American law enforcement, prosecution by the Department of Justice, is a tried-and-true vehicle for prosecuting and punishing terrorists.

By contrast, the Gitmo military tribunals have convicted three detainees. After all those years of trouble and effort, 289 defendants convicted in our criminal courts, three in our military commissions.

So I submit there may be very good logic for those military commissions, but it is not a wise decision and not properly our decision to force the hand of the executive branch of government and close down the side of the war on terrorism that has been most effective at incarcerating and punishing our terrorist enemies.

I yield the floor and, again, thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I thank the Chair.

Madam President, I wish to associate myself with Leader MCCONNELL and thank him for his leadership on the Guantanamo Bay issue. I know as the President looks to close this facility which costs the American taxpayers $275 million, people around the country, including in my own State of South Carolina, are concerned that we will now move some of the world's most dangerous people into a civilian area that is not designed for this type of security threat. I appreciate the leadership of Senator MCCONNELL in trying to bring some rational thinking.

HONDURAS

I wish to take a break from the discussion of Guantanamo Bay and the appropriations bills to discuss briefly the situation in Honduras. Honduras is one of America's best allies in this hemisphere. For the last 4 months they have been involved in a constitutional crisis. I have been very critical of the administration's handling of the Honduras situation. In fact, I have held two nominees, one to Latin America and one to Brazil, in order to shine a spotlight on the situation and get this administration and this Congress to focus on what I consider very bad policy toward a very close friend of the United States.

While I have been critical, it is important, when the administration changes its view and puts things on the right course, to thank Secretary Clinton, Secretary Tom Shannon for their work in Honduras. I also wish to talk a little bit about the situation.

As part of my talk, I want Senator REID to know it is my intent to release my holds on the nominees so they can move forward, now that I believe the administration has set a good course for our allies in Honduras.

Let me take a few minutes to go through the background of the situation. Not many people have paid much attention to it. Over 4 months ago, I believe our administration rushed to judgment in declaring the removal of President Zelaya from office as a military coup. All branches of the Honduran Government agreed that he should have been removed. The congress, the electoral tribunal, the attorney general, the supreme court, all institutions of democracy in Honduras, agreed the president had violated the constitution and the law and needed to be removed from office. For weeks leading up to his arrest, President Manuel Zelaya defied his nation's laws and attempted to illegally rewrite the Honduran constitution so he could remain in office past his term. That probably sounds familiar because that is the same course Hugo Chavez has taken in Venezuela and Ortega in Nicaragua. We know about the Castros, of course. It is a pandemic in Latin America that democracies elect leaders who change the constitution and become dictators. Zelaya was on the same course until the democratic institutions in Honduras stopped him short.

He attempted to force a national vote to allow himself to stay in office. He went so far as to lead a violent mob to try to retrieve ballots printed in Venezuela that had been confiscated by the Honduran authorities so he could not have the national referendum he wanted. As I mentioned before, every Honduran institution supported his removal because of his open defiance of the laws and the constitution. The people of Honduras have struggled too long to have their hard-won democracy stolen from them by a would-be dictator. The Honduran Government had little choice but to act in accordance with the Honduran constitution and their own rule of law. They had to remove Zelaya from office to protect their democracy.

Since June, the Law Library of Congress made public a thorough report defending the actions undertaken by the Honduran institutions in contradicting the claims made by the Obama administration. Our own State Department said they have secret legal memos of their own supporting their actions, but they have refused our request to release them and have kept them hidden from the public. Instead of siding with the Honduran people, the administration decided to put their full support behind Mr. Zelaya, who is a close ally of Hugo Chavez and who the State Department even said had undertaken provocative actions that led to his removal. Despite this admission, the Obama administration has waged a war directly against the Honduran people by denying visas, terminating aid, and refusing to acknowledge that free and fair elections would solve the problems in Honduras.

The Presidential election is on schedule for November 29. It has been scheduled that way since 1982, when their constitution was put in place. Under Honduras's one-term-limit requirement, Zelaya could not have sought reelection anyway. The current president, Roberto Micheletti, whom I just got off the phone with, was installed after Zelaya's removal per the constitution. He is not on the ballot either. He is not seeking power in Honduras. The Presidential candidates were nominated in primaries over a year ago, and all of them, including Zelaya's former vice president, expect these elections to be free and fair and transparent, as has every other Honduran election for almost a generation. I have been terribly disappointed with the administration's policies on Honduras and have consistently argued that the upcoming November 29 elections are the only way out of this mess. We as a nation have to send a signal that we will recognize these elections.

I personally visited Honduras last month and was satisfied as to the legitimacy of the interim government of Micheletti and as to the legitimacy of the long-scheduled Presidential elections that will be held later this month. I am happy to report that after many months, Secretary Clinton and Assistant Secretary Shannon have led the Obama administration back in the right direction. I met yesterday with Assistant Secretary of State of Latin America Tom Shannon and spoke today with Secretary Clinton. I can report that we now appear to be on the right track. Both Assistant Secretary Shannon and Secretary Clinton assured me that notwithstanding any previous statements by administration officials, the United States will recognize the November 29 Honduran election, regardless of whether the Honduras Government votes to reinstate Zelaya. They have made it clear the administration will recognize the elections, regardless of whether the Honduran Congress votes on the Zelaya reinstatement before or after the November 29 election.

The independence, transparency, and fairness of those elections has never been in doubt. Thanks to the reversal of the Obama administration, the new government sworn into office next January can expect the full support of the United States and, I hope, the entire international community.

I applaud the administration. I am thankful they have ended their focus on whom I consider a would-be dictator and are now standing firmly with the Honduran people and for a Honduran solution to the problem. Today starts a major step forward for the cause of freedom and democracy for the western hemisphere, for the United States, and especially for the brave people of Honduras. They are proving that despite crushing hardships and impossible odds, freedom and democracy can succeed anywhere people are willing to fight for it. The condemnation heaped on the free people of Honduras these last several months never had to happen. The Obama administration erred in its assessment of the situation in Honduras because of a rush to judgment based on bad information. We have all learned a lesson about distinguishing friends from foes and the

paramount importance of constitutional democracy to international stability.

For months I have made it clear I would continue to object to two State Department nominations until the United States reversed its flawed Honduras policy. My goal has been to get this administration to recognize the November 29 elections. Now that this has happened, I will keep my part of the bargain and release these holds. I will notify Senator REID that these nominations can move ahead on his schedule. It is no secret that I have been critical of the administration on their handling of these issues. But I take this opportunity today to thank Secretary Clinton and Assistant Secretary Shannon for reengaging the Honduran Government and working out a solution that President Micheletti and the government in Honduras, as well as the Honduran people, feel is fair.

There are still a number of concerns. As I talked to President Micheletti moments ago, he is concerned that the Organization of American States continues to support deposed President Zelaya and is organizing, along with Zelaya, a lot of mischief related to the upcoming elections, encouraging people to take to the streets and violence. I hope the State Department and the Obama administration, along with Congress, will continue to support the Honduran people and make sure the Organization of American States and any other country will support the agreement that has been signed by the people in Honduras and that we have agreed to.

I am thankful for the opportunity to speak on this issue, to bring it to the attention of this Congress and the American people. I look forward to releasing the holds on these nominations and continue to follow the situation closely, particularly the November 29 elections, as Honduras continues as a free and democratic nation.

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

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

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MIKULSKI. Mr. President, as the chairman of the Commerce, Justice, Science Committee, I ask unanimous consent that all postcloture time be yielded back, except the 10 minutes specified for debate as noted in this agreement; that the Senate now resume the Coburn amendments Nos. 2631 and 2667, and that prior to the votes in relation to each amendment in the order listed, there be 2 minutes of debate, equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendments; that upon the disposition of the Coburn amendments, the Senate resume consideration of the Graham amendment No. 2669, and that prior to a vote in relation to the amendment, there be 4 minutes of debate, equally divided and controlled between Senators GRAHAM and LEAHY or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendment; that upon disposition of the Graham amendment, the Senate then resume the Ensign amendment No. 2648, as modified; that there be 2 minutes of debate, equally divided and controlled in the usual form, prior to a vote in relation to the amendment; that upon disposition of the Ensign amendment, the Senate resume the Johanns amendment No. 2393; that the amendment be agreed to and the motion to reconsider be laid upon the table, with no amendments in order to the aforementioned amendments; that no further amendments be in order; that the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees, with the subcommittee plus Senators BYRD and COCHRAN appointed as conferees; that if a point of order is raised and sustained against the substitute amendment, then it be in order for a new substitute to be offered, minus the offending provisions but including any amendments previously agreed to; that the new substitute be considered and agreed to, no further amendments be in order, the bill, as amended, be read a third time, with the provisions of this agreement after adoption of the original substitute amendment remaining in effect; and that the cloture motion on the bill be withdrawn; and that the order commence after the remarks of Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Ms. MIKULSKI. Mr. President, as in executive session, I ask unanimous consent that upon disposition of H.R. 2847, the Senate proceed to executive session and immediately proceed to vote on confirmation of the nomination of Calendar No. 462, and 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 then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2669

Mr. SESSIONS. Mr. President, I would like to speak, briefly, in support of Senator GRAHAM's amendment dealing with the trial of 9/11 terrorists in Federal court. It, in effect, would prohibit the administration from doing that by denying funding for any such trials.

This is a very important matter. One of the things we learned when 9/11 occurred was that this country had made a mistake in treating people who are at war with the United States, who attempt to destroy the United States, as normal criminals and that they should be tried in court.

We learned the only effective way to deal with persons such as that is to treat them as prisoners of war or unlawful combatants, who are people who violate the rules of war—and all these individuals do, basically, with the way they conduct themselves. So we would try them according to military commissions. The Constitution makes reference to military commissions. They can be tried fairly in that method without all the rules and procedures we cherish so highly in Federal courts for the trials of normal crimes that people are accused of in this country.

I spoke about al-Marri just last week, who came to the United States on September 10. He had met bin Laden. He had been to a training camp in Afghanistan. He had a goal, pretty clearly, to participate in an attack on the United States. He seemed to be a part of that entire effort. He came 1 day before 9/11. He was tried by a Federal judge who apparently gave a conviction but sentenced him to, in effect, 7 years. He had training in bomb making and that kind of thing. He had done other acts that indicated an intent to kill American people, innocent civilians, in a surreptitious way, contrary to the laws of war. So as a result of that, I think he should have been tried by a military commission, and he was not.

As one of the professors said in commenting on this case, it raises questions about the ability of our normal Federal court system to try these people who may be subject to having the courthouse attacked in an attempt to free them. Jurors may feel threatened because they are willing to kill to promote their agenda—or their allies are. Courthouses have to be armed with guards all around and with people on top of the courthouse to protect the courthouse throughout the trial.

They can be tried effectively by military commissions. So Senator GRAHAM is serving the national interest in raising this issue. It is not a little bitty matter. It is correct. He has a good idea about it. He has focused it narrowly on the 9/11 issue and on those who participated in that attack. I think that is at least what we should do today.

We need to have a sincere analysis of the determination by this administration to try more and more cases in Federal court when they have been

captured by the military. In fact, they say there is a presumption in their commission report to date that they would be tried in Federal courts rather than military commissions. I think that is very dangerous because military people do not give them Miranda warnings when they are arrested. They do not do the kinds of things that are necessary to maintain change of custody or to admit evidence into trials in a way we would normally do. These kinds of procedures could cause a trial to be extremely difficult. They could bring witnesses from the battlefield and the like.

It is not the way, I am aware, any country tries people who are at war with them—any country. All countries provide for military commissions against unlawful combatants.

I see my friend, Senator CHAMBLISS, in the Chamber. I know he wants to speak on this issue.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in strong support of the Graham amendment, and I wish to echo the sentiments expressed by my friend from Alabama, who, like me, has had extensive experience in trying cases for many years.

In this country, over our 225-plus years, we have been involved in many different military conflicts. In each of those conflicts, dating back to the early years, there have always been prisoners captured, and we have always had a procedure whereby we incarcerated and ultimately tried those individuals who were captured on the battlefield.

The process of how we operate from an article III criminal standpoint relative to criminals in America who commit offenses against the United States of America is one thing. The process we have always used to deal with those individuals whom we capture on the battlefield has been entirely different and all for the right reasons.

I know there are those who have gotten up here over the past several weeks and months as we have talked about this issue from time to time, and I have had any number of amendments on this issue and have spoken on the floor numerous times about it. It is important for the protection and security of the American people to keep all these individuals whom we capture on the battlefield, who are incarcerated at Guantanamo, outside America. We have the mechanics set up to try them. We have a very safe place for them to be incarcerated. That is, frankly, where they ought to stay until some method can be worked out to deal with them, to have them housed somewhere outside the United States.

Unfortunately, the President has made a commitment to close Guantanamo by January 22, without ever having a plan in place as to how he was going to deal with them. What we are talking about doing is making sure, because folks on the other side of the aisle have already said: We want to bring the prisoners from Guantanamo to American soil, we try them there. Ultimately, I guess they are saying: We want to house them in American prisons. I think that is wrong.

This amendment, though, is even narrower than that. That is why it is so important. This amendment says: We are going to take the meanest of these individuals, who get up every day thinking of ways to kill and harm Americans, and make sure they never come to American soil for trial and are never subjected to the process that is developed in article III courts for average, ordinary criminals who are tried every single day in America.

Khalid Shaikh Mohammed is the admitted mastermind of September 11. He is one of the individuals who today is housed at Guantanamo Bay. He is one of the individuals who is going to be directly affected by this amendment. Does Khalid Shaikh Mohammed want justice? No. Khalid Shaikh Mohammed wants a platform. He wants a platform on which to exude his arrogance and his hatred of America and his hatred of Americans, as exhibited by the plan he put in place to fly airplanes into the Pentagon, the World Trade Center, and another entity that was probably the U.S. Capitol. That airplane, ultimately, crashed in Pennsylvania.

There were over 3,000 victims on September 11. It is my understanding family members of those victims have written letters and made phone calls urging the passage of this amendment. They are an indication of the strong feeling that prevails all across America relative to how we deal with these individuals who, particularly—particularly—intended and did, in fact, carry out an attack against America, an atrocious attack that took the lives of over 3,000 people.

I commend Senator GRAHAM for even thinking of the idea of narrowing this amendment to include just those individuals who participated in the September 11 attack. I would rather broaden it to include all those who are housed at Guantanamo. I defy anyone to stand and say that trying any of those individuals who are housed at Guantanamo, who were captured on the battlefield, in an article III court in the United States would be similar to some other terrorists we have tried in this country. That is wrong. We have never tried anybody who was arrested on the battlefield in an article III court in the United States.

So Senator GRAHAM's amendment is very appropriate. It ought to be passed. It ought to be passed with a large margin. A vote against this amendment is simply a vote to give Khalid Shaikh Mohammed that platform he wants to have to talk about why he hates America and about everything that is wrong with America. That is not what we ought to be doing in this body today or at any other time.

I urge a positive and affirmative vote on the Graham amendment.

I yield back, Mr. President.

AMENDMENT NO. 2631

Ms. MIKULSKI. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. Coburn amendment No. 2631 is the pending amendment.

Ms. MIKULSKI. Mr. President, I vigorously and unabashedly oppose the Coburn amendment. It eliminates not only the dollars from the science program at the National Science Foundation, it specifically targets the $9 million cut in the area of funding for research by political scientists.

The very first American woman to win the Nobel Prize for economics ever has received 28 awards from the National Science Foundation, the science program offered to political science professors. It shows what groundbreaking work can be done.

This amendment is an attack on science. It is an attack on academia. We need full funding to keep America innovative, and I urge my colleagues to vote no on this amendment.

Mr. President, I yield back the remainder of our time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. Who yields time in favor of the amendment?

Is there objection to yielding back all time?

Without objection, all time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

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

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—36

Barrasso	Enzi	McConnell
Baucus	Graham	Murkowski
Bayh	Grassley	Nelson (NE)
Bennett	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Sessions
Chambliss	Isakson	Shelby
Coburn	Kyl	Thune
Corker	LeMieux	Vitter
Crapo	Lugar	Voinovich
DeMint	McCain	Webb
Ensign	McCaskill	Wicker

NAYS—62

Akaka	Burr	Conrad
Alexander	Burris	Cornyn
Begich	Cantwell	Dodd
Bennet	Cardin	Dorgan
Bingaman	Carper	Durbin
Bond	Casey	Feingold
Boxer	Cochran	Feinstein
Brown	Collins	Franken

Gillibrand	Leahy	Sanders
Gregg	Levin	Schumer
Hagan	Lieberman	Shaheen
Harkin	Lincoln	Snowe
Inouye	Menendez	Specter
Johanns	Merkley	Stabenow
Johnson	Mikulski	Tester
Kaufman	Murray	Udall (CO)
Kerry	Nelson (FL)	Udall (NM)
Kirk	Pryor	Warner
Klobuchar	Reed	Whitehouse
Kohl	Reid	Wyden
Lautenberg	Rockefeller	

NOT VOTING—2

Byrd Landrieu

The amendment (No. 2631) was rejected.

Mr. REID. Mr. President, I ask unanimous consent that all succeeding votes in the tranche of votes—and I think there are five—be 10 minutes in duration.

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

Mr. REID. Mr. President, people are anxious to finish tonight. If everybody will try to stay close and not wander around, we can wrap these up.

I yield at this time to the Senator from Texas, KAY BAILEY HUTCHISON.

MOMENT OF SILENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that this body have a moment of silence in memory of 11 great soldiers at Fort Hood, TX, who have been shot down this afternoon at the base at a processing center where they were being prepared to be deployed to Iraq and Afghanistan. In addition, the person who was the main shooter has also been killed. Over 30 of our great personnel are also injured and being treated as we speak.

When I spoke to the general a few minutes ago, the base, Fort Hood, was still in lockdown to make sure they have checked every possibility that there would be no more shootings. I know all of us love our military and appreciate everything they do. For them to have to suffer even more tragedy like this, as they are on their way to protect our freedom, is unthinkable.

I ask unanimous consent that all of us show how deeply we care about them right now on the floor of the Senate.

The PRESIDING OFFICER. Without objection, a moment of silence will commence.

[Moment of Silence.]

Mrs. HUTCHISON. Mr. President, I thank Senators very much.

AMENDMENT NO. 2667

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided in relation to the Coburn amendment No. 2667. Who yields time?

The Senator from Oklahoma.

Mr. COBURN. Mr. President, this is a straightforward amendment that actually increases the funding for the IG. One of our weaknesses is waste, fraud, and abuse. According to GSA, this will not affect the renovations whatsoever at the Hoover Building. We are simply transferring funds.

I understand a point of order is going to be made against this amendment. But if my colleagues want control and have accurate work done by our IGs, we need to fund them appropriately, and this amendment is intended to do that.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I share the concerns of the Senator from Oklahoma about oversight at the Department of Commerce. That is why the bill already funds the inspector general at $25.8 million, the same as the President's request. There is an additional $6 million furnished through the stimulus.

This amendment does cut the Hoover Building and it would only delay the renovations to meet basic health and safety standards. I oppose the amendment. The amendment would cause the CJS bill to exceed its allocation. Therefore, I make a point of order that the amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I move to waive the applicable section of the Budget Act with respect to my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—42

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lincoln
Baucus	Ensign	Lugar
Bayh	Enzi	McCain
Bennett	Feingold	McCaskill
Brownback	Graham	McConnell
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

NAYS—57

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

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment fails.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2669

The PRESIDING OFFICER. There is now 4 minutes equally divided before the vote on the Graham amendment, No. 2669.

The Senator from South Carolina.

Mr. GRAHAM. Colleagues, we are about to take a vote. It is a tough vote, and I regret we are having to do this, but at the end of the day, I have a view that this country is at war. I think most of you share it. Our civilian court system serves us well, but we have had a long history of having military commission trials when the Nation is at war. The military commission bill which this Congress wrote is reformed. It is new, it is transparent, and it is something I am proud of.

This amendment says that the six coconspirators who planned 9/11—Khalid Shaikh Mohammed at the top of the list—will not be tried in Federal court because the day you do that, you will criminalize this war.

In the first attack on the World Trade Center, the Blind Sheik was tried in Federal court, and the unindicted coconspirators list wound up in the hands of al-Qaida.

Military commissions are designed to administer justice in a fair and transparent way, but they know and understand we are at war. Our civilian courts are not designed to deal with war criminals; the military system is.

Khalid Shaikh Mohammed, the mastermind of 9/11, didn't rob a liquor store; he didn't commit a crime under domestic criminal law; he took this Nation to war and he killed 3,000 of our citizens. He needs to have justice rendered in the system that recognizes we are at war.

Please support this idea of not criminalizing the war the second time around.

The PRESIDING OFFICER. Who yields time?

Mr. REED. Mr. President, we all recognize the severity of this issue and the passion the Senator from South Carolina brings to the issue. But since 9/11, we have tried 195 terrorists in article III courts; we have tried 3 in military commissions. I think we have recognized that our courts are durable enough to stand up to the issues of the culpability of these individuals and the magnitude of their actions. Secretary Gates and Attorney General Holder have asked for the option to use article

III courts or military commissions. We are preserving that if we reject the Graham amendment.

Let me say something else. Our enemies see themselves as jihadists—holy warriors. They don't object to being tried in military commissions because they see themselves as combatant warriors. They are criminals. They committed murder. The sooner we can convince the world that these aren't holy warriors, that they are criminals, the sooner we will take an advantage in this battle of ideas between those people and the system of laws and justice that we represent and try to protect and defend.

So I recognize the sincerity and the passion of the Senator, but I would urge a vote against this amendment, and I move to table the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. To my dear friend, this is the biggest issue of the day: Are they criminals? Are they warriors? Does it matter? These people are not criminals, they are warriors, and they need to be dealt with in a legal system that recognizes that.

And to the 214 9/11 families who support my amendment, I understand that the people who killed your family members are at war with us. I hope the Senate will understand that so we don't have another.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Rhode Island.

Mr. REED. Mr. President, do I have time remaining?

The PRESIDING OFFICER. Twenty-five seconds.

Mr. REED. Mr. President, this present statute that is on the books gives the Secretary of Defense the opportunity to recommend and the Attorney General the opportunity to prosecute in either an article III court or a military tribunal. I think that choice should be maintained.

I would urge that we defeat this amendment.

I move to table the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—54

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

NAYS—45

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Cantwell	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Corker	LeMieux	Voinovich
Cornyn	Lieberman	Webb
Crapo	Lincoln	Wicker

NOT VOTING—1

Byrd

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2648, AS MODIFIED

The PRESIDING OFFICER. There is now 2 minutes equally divided with respect to the Ensign amendment, No. 2648. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, my amendment is very simple. It would add $172 million to the State Criminal Alien Assistance Program. This program provides payment to States that incur correctional officer salary costs for incarcerating undocumented criminal aliens for at least one felony or two misdemeanor convictions. This amendment is offset by simply an across-the-board decrease in spending, so it is budget neutral.

I believe this is an important amendment. It is especially important if you are in one of the Southwestern States or border States. Local law enforcement in those states incur a lot of expenses; those associated with illegal immigrants, especially those who are criminals. I urge my colleagues to support this amendment and match what the House of Representatives did when they passed this amendment by a vote of 405 to 1. Let's go along with the House of Representatives and make sure our local law enforcement has the resources they need to fight those who are here illegally and committing serious crimes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise in opposition to the Ensign amendment. The State Criminal Alien Assistance Program, a program that was not requested by this nor the previous administration, is currently overfunded in this bill at $228 million. With the Ensign amendment, we are being asked to add $172 million to a program that barely touches most of our States. Since 2004, five States have received 71 percent of the $2.1 billion in funding for this program.

Let me say that again, 71 percent, or $1.5 billion of the amount for this program since 2004, has gone to five States. This can hardly be called a national program.

In 2008, during the CJS Senate floor debate a year ago, this amendment was tabled and rejected by a vote of 68 to 25. I strongly oppose this amendment and urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I support every comment made by my ranking member. I believe this amendment will cause the CJS bill to exceed its allocation, therefore I make a point of order the amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. To clear up a couple of facts, first of all, not every State has the same problem with illegal immigrants that other States do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ENSIGN. I move to waive the applicable sections of the Budget Act with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

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

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

The yeas and nays resulted—yeas 32, nays 67, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—32

Barrasso	Ensign	LeMieux
Baucus	Enzi	McCain
Bingaman	Feinstein	McConnell
Boxer	Graham	Nelson (NE)
Brownback	Grassley	Reid
Burr	Hagan	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Tester
Cornyn	Isakson	Thune
Crapo	Johanns	Wicker
DeMint	Kyl	

NAYS—67

Akaka	Bunning	Conrad
Alexander	Burris	Corker
Bayh	Cantwell	Dodd
Begich	Cardin	Dorgan
Bennet	Carper	Durbin
Bennett	Casey	Feingold
Bond	Cochran	Franken
Brown	Collins	Gillibrand

Gregg
Harkin
Inhofe
Inouye
Johnson
Kaufman
Kerry
Kirk
Klobuchar
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCaskill
Menendez
Merkley
Mikulski
Murkowski
Murray
Nelson (FL)
Pryor
Reed
Rockefeller
Sanders
Schumer
Sessions
Shaheen
Shelby
Snowe
Specter
Stabenow
Udall (CO)
Udall (NM)
Vitter
Voinovich
Warner
Webb
Whitehouse
Wyden

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 32, the nays are 67. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to, the point of order is sustained, and the amendment falls.

AMENDMENT NO. 2393

The question is on agreeing to amendment No. 2393.

The amendment (No. 2393) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that it be in order to make a point of order against the remaining amendments.

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

Ms. MIKULSKI. I make a point of order en bloc that amendments Nos. 2644, 2627, 2646, 2625, 2642, and 2632 are either not germane postcloture or violate rule XVI.

The PRESIDING OFFICER. The points of order are well taken. The amendments fall.

AMENDMENT NO. 2647, AS MODIFIED

Ms. MIKULSKI. Mr. President, notwithstanding the order regarding the passage of H.R. 2847, I now ask unanimous consent that amendment No. 2647, as modified, be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2647), as modified, was agreed to.

EFFECTS OF RESEARCH AND DEVELOPMENT AND ENERGY ON THE GDP

Mr. BINGAMAN. Speaking through the Chair to the manager of the Commerce-Justice-Science bill, I would like to ask if she is aware that the President's fiscal year 2010 budget for the Bureau of Economic Analysis contained two important initiatives to measure the impact that research and development as well as energy has on the gross domestic product?

Ms. MIKULSKI. Yes, I am aware of these two important initiatives I know from the COMPETES Act, which I was integrally involved in with the Senator, that one of the more important policy questions is what effect research and development has on gross domestic product. There are many estimates that it is substantial and it is an important question for Congress to consider.

Mr. BINGAMAN. As chairman of the Energy and Natural Resources Committee, I would also like to point out another initiative by the Bureau in the fiscal year 2010 budget on the effect of energy consumption on the gross domestic product. I believe that such macroeconomic information will be critical as we develop a comprehensive energy policy that is currently before the Congress.

Ms. MIKULSKI. Yes, I am aware of the initiative and it is important we understand how the recent prices increases for the energy we use affects the overall gross domestic product.

Mr. BINGAMAN. I would like to ask the manager if during conference with the House consideration can be given to help start these two initiatives so that we in Congress can begin to understand how these two important parameters affect our gross domestic product.

Ms. MIKULSKI. I thank Senator BINGAMAN. I will work with the House and Senate conferees to give these two important initiatives the consideration they deserve.

COPS HIRING PROGRAM FUNDING

Mr. BENNET. Mr. President, I congratulate the senior Senators from Maryland and Alabama for their excellent work putting together a Commerce, Justice, Science—CJS—appropriations bill that invests in critical national priorities. At this moment, I would like to invite Chairwoman MIKULSKI to enter into a colloquy about how important that the Community-Oriented Policing Services, COPS, Hiring Program is for our local law enforcement personnel. Given the budget shortfalls faced by states and local governments, federal resources through the COPS program are absolutely essential to ensure that work we are doing locally to prevent domestic violence and drug trafficking, for example, do not go neglected during this recession. I know Senator MIKULSKI has championed the COPS program, and. I would love to hear more of her thoughts.

Ms. MIKULSKI. Certainly, I thank the Senator for his kind words. As the Senator noted, I am a strong supporter of the COPS Hiring Program. This year in particular, we faced difficult funding decisions and had to juggle a number of priorities because we were trying to make up for years of underinvestment in Justice Department programs. That is why our fiscal year 2010 CJS spending bill provides $100 million for the COPS Hiring Program to put an additional 500 cops on the beat, patrolling our streets and protecting our families. As we move forward to conference with the House, I expect to hear from Democratic members about the need to increase those funds. I intend to do my part in conference to see that this program remains a high priority in the conference report.

Mr. BENNET. I agree with the Senator that we need to ensure that our law enforcement ranks remain stable. In February, this body took significant steps to ensure that our law enforcement maintained its ranks through investments made in the American Recovery and Reinvestment Act. The stimulus provided $1 billion for the COPS Hiring Recovery Program, CHRP, which was intended to help communities hire and rehire police officers during the recession. Nearly 7,300 CHRP applications requesting over 39,000 officers and $8.3 billion in funds were submitted to the COPS Office. Because of limited funds available, COPS was able to fund only 1,046—14 percent of the 7,272 CHRP requests received during the 2009 solicitation.

Some local law enforcement in my state are in need of assistance, though, and have not been able to get it. In July, the Montrose Police Department tragically lost Sgt. David Kinterknecht in a shooting. His sacrifice in the line of fire is a testament to the commitment of law enforcement in Colorado. Unfortunately, Montrose and some other departments in my state were rejected when they applied for the COPS Hiring Recovery Program. After the loss of Sergeant Kinterknecht, they were not only unable to add to their force, but also could not refill their ranks after this tragic death. The Montrose Police Department remains an officer short.

The story of the Montrose Police Department is just one of the many challenges faced by law enforcement as they try to protect our communities. Denver had to forego pay increases for 2010 and 2011 due to shortfalls in the city budget, for example. The city faced layoffs and our law enforcement made hard concessions in order to protect crucial jobs. Now in addition to making sacrifices in the line of duty, law enforcement is making financial sacrifices as our communities struggle to stay above water.

An increase in funding for the COPS Hiring Program would go a long way toward helping communities brace with the challenges of the current economic crisis.

Ms. MIKULSKI. I agree that we need to do all we can to help our police officers to ensure they are not walking a thin blue line. Our cops need a full team to combat violence, protect families, and fight the crime that's destroying neighborhoods. The funding provided in the stimulus went a long way toward helping put cops back on the beat. It is clear that the demand and needs of local communities are high. The Senators tireless advocacy for his State's law enforcement is much appreciated. The Senator has made his point loud and clear, and I know we will continue to hear from him on the importance of the COPS Hiring Program as we move into conference.

Mr. BENNET. I thank the Senator.

Mr. CARDIN. Mr. President, I rise today to express my support for the Senate amendment to H.R. 3288 and to thank my colleagues on the Commerce,

Justice, Science, and Related Agencies Appropriations Subcommittee for their fine work on this bill. I congratulate the senior Senator from Maryland, Ms. MIKULSKI, and the ranking member, Mr. SHELBY, for crafting legislation that positively impacts the course of technology-based innovation, U.S. competitiveness, and scientific advances while protecting Americans from terrorism and violent crime.

In my home State of Maryland, we are fortunate to have many Maryland facilities that have crucial roles in the development and advancement of science and technology. The Senate amendment provides $878.8 million for the National Institute of Standards and Technology, or NIST. NIST operates a 234-acre headquarter facility in Gaithersburg, MD, where more than 2,500 scientists, engineers, technicians, and support personnel are employed. NIST assists industry in developing technology to improve product quality, helps modernize manufacturing processes, ensure product reliability, and facilitate rapid commercialization of products based on scientific discoveries.

Maryland is also fortunate to be home to several National Oceanic and Atmospheric, or NOAA, facilities. The Senate amendment provides $4.77 billion for NOAA. NOAA provides scientific, technical, and management expertise to promote safe and efficient marine and air navigation; assess the health of coastal and marine resources; monitor and predict the coastal, ocean, and global environments—including weather forecasting—and protect and manage the Nation's coastal resources. NOAA's significance is strongly felt in Maryland which, with the Chesapeake Bay, boasts 4,000 miles of coastal land. The bill funds several environmental projects important to Maryland including the Chesapeake Bay Interpretive Buoy System and NOAA's Chesapeake Bay Oyster Restoration, and the Chesapeake Bay Environmental Center to name a few.

As we are all acutely aware, the decennial Census will soon be upon us. This legislation provides $7.32 billion for the Census Bureau. The challenges of the 2010 Census will be unlike any previously experienced. Hot button issues such as immigration and healthcare have cultivated mistrust of the government and will impede public cooperation on the Census. Responses to economic conditions such as families whose home have been foreclosed living in recreational vehicles or multiple families ''doubling up'' into single family homes present even more challenges. However, these challenges simply underscore the importance of the Census and the necessity of making sure every person counts. The Census count will determine federal financial formula allocations. Not in the past seven decades has the Census been so significant, economically speaking. And for those who question whether their voices are heard on Capitol Hill; the Census ensures that they do through the process of reapportionment. It is imperative that the 2010 Census count be accurate. I thank the appropriators for their attention to this important matter on behalf of the nearly 4,300 employees of the U.S. Census Bureau Headquarters in Suitland, MD.

The committee has provided $27.39 billion for the Department of Justice. This will fund important grant programs like the Byrne justice assistance grants for local law enforcement, and Community Oriented Policing Service or COPS grants, and other crime abatement activities. The bill combats crime in Maryland by providing funding for programs such as the Annapolis Capital City Safe Streets Program and the Maryland Department of Juvenile Services Violence Prevention Initiative. This bill supports our law enforcement officers who protect and serve Americans each day by giving them the resources needed to combat and deter violent crimes. In Maryland, this includes the State Police First Responder Radio Interoperability Project. The State of Maryland has committed to developing a Radio interoperability Project that will link State and local law enforcement agencies for coordinated, comprehensive protective services.

I commend Senator MIKULSKI for boosting funding for the Legal Services Corporation, LSC, in this bill, and for removing the restrictions on the use of non-LSC funds by LSC grant recipients. Lifting this restriction in the law is important, because it allows LSC grantees to use their own funds to pursue class action lawsuits and attorneys fees. These are critical tools for lawyers to have in their arsenal as they fight to protect their low-income clients against egregious miscarriages of justice, and help the most vulnerable individuals in our society secure equal justice under the law. I chaired a hearing in May 2008 in the Judiciary Committee on ''Closing the Justice Gap.'' This bill is consistent with many of our witnesses' recommendations at the hearing, and also with the underlying reauthorization legislation—the Civil Access to Justice Act—filed by Senators KENNEDY, HARKIN, and me in March 2009. I am also pleased that the House has introduced legislation to reauthorize LSC, and look forward to working with the Obama administration and my colleagues in Congress to enact both the LSC appropriations and reauthorization legislation in this Congress.

In closing, again let me say how much I appreciate the work of Senator MIKULSKI, Senator SHELBY, and their staffs along with the rest of the subcommittee. In addition to providing for critical law enforcement needs, they have crafted a bill that spurs American interests in science and technology forward; making way for American innovation in the global economy. I find that quite impressive and I support this bill.

Mr. AKAKA. Mr. President, I support the Commerce, Justice, Science, and Related Agencies appropriations bill for fiscal year 2010. This bill's priorities will protect America from terrorism and violent crime; create jobs for Americans by investing in the Nation's scientific infrastructure and in new technologies; and ensure a timely and accurate 2010 decennial census.

In Hawaii, as in the rest of the Nation, sexual and domestic violence unfortunately persists, bringing with it the need for programs and services that address such violence and meet the needs of victims. For nearly four decades, the Sexual Assault Response Services of the Hawaii County and Kauai County YWCAs, have offered a 24/7 sexual assault hotline, 24/7 on-call crisis intervention, and support for victims of sexual assault and violence through the medical examination and legal services process, individual/group therapeutic counseling, and case management. I am therefore thankful that this bill includes $400,000 to enable the Hawaii and Kauai County YWCAs to continue their critically needed services.

Like other political jurisdictions across the Nation, Hawaii has pursued collaborative, community based delinquency prevention programs targeted to at-risk youth. To address this need the bill includes $300,000 for Ka Wili Pu (Native Hawaiian for ''the blend'') a project that would provide 400 at-risk youth on Maui with adult guidance and adult role models and one-on-one instruction to bolster their self-esteem, self-confidence, school attendance, and academic performance and dissuade them from becoming truants and dropouts. By encouraging at-risk youth to remain in school, fulfill their promise, and avoid a problematic future with few meaningful options, Ka Wili Pu promotes a healthier and more stable society.

Recognizing that children and elderly adults can become lost and disoriented in the urban and suburban areas of Hawaii, $500,000 is provided for A Child Is Missing—ACIM—Hawaii. ACIM currently operates in 49 States but not in Hawaii, where its advanced telephone-based computer system only recently became available. That system can place 1,000 phone calls every 60 seconds to residences and businesses in the area where a missing child or adult was last seen. This initiative will provide that critical rapid response to assist law enforcement agencies in Hawaii to locate missing children and adults.

I am also pleased that $500,000 was included in this legislation for the State Courts Improvement Initiative of the National Center or to Courts, NCSC. The NCSC was founded in 1971 by the Conference of Chief Justices, CCJ, the Conference of State Court Administrators, COSCA, and former U.S. Supreme Court Chief Justice Warren E. Burger. Today, the NCSC serves as a think tank, forum, and voice for 30,000 judges, and 20,000 courthouses, in the

State court system in the 50 States, DC, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa, where annually 98 percent of court filings are submitted. This request funds the implementation of the NCSC's State Courts Improvement Initiative, which will increase support services to judges, administrators and other personnel in the state court system. Improving the operations of the state courts will help shape Americans' understanding of and confidence in the Nation's judicial system.

Because there may be Hawaii prisoners with credible claims to actual innocence who have exhausted their appellate rights and their rights to counsel, the bill includes $300,000 for the Hawaii Innocence Project. Founded in 2005 by Hawaii attorneys in partnership with the William S. Richardson School of Law, this project, in which law students work alongside practicing criminal defense attorneys, provides pro bono assistance to Hawaii prisoners who no longer have access to legal resources but who may be innocent of the crimes for which they were convicted, and whose innocence may now be proven through technology unavailable at the time of their trials. The possible exoneration of any wrongfully convicted individual will help to serve the cause of justice.

The Violence Against Women Act, VAWA, acknowledges that immigrant women, particularly indigent women, are a specific and often overlooked at-risk group. In Hawaii, the Hawaii Immigrant Justice Center, HIJC, is the only agency providing pro bono civil legal services to indigent immigrants, particularly immigrant women who are victims of sexual assault and domestic violence. For many years, the HIJC has coordinated and delivered comprehensive assistance to indigent immigrant women through a cost-effective delivery of legal, medical, psychological, and social services that would otherwise have required the intervention of a range of other public agencies and at far greater cost. I am pleased that this bill includes $200,000 for the HIJC to enable the agency to continue to perform its good work, which not only assists immigrant victims of sexual violence but places them on a path to self-sufficiency that will, in time and over the long term, mitigate the effects of crime and promote family and social stability.

All in all, the fiscal year 2010 Department of Justice-related appropriations will help Hawaii to discourage delinquency and crime, bring criminals to justice, address and meet the needs of victims, and promote a fairer and more just society.

Funding included in this bill also bolsters advancements in science and technology, as well as enhances U.S. competitiveness. I am proud to have worked with Senator INOUYE to secure resources that support ecosystem based management, preserve the endangered Hawaiian Monk Seal, strengthen our understanding of climate change, improve warning systems for public safety, and further science education at the 'Imiloa Astronomy Center. These programs will inform our decisions on how we manage our resources, as well as understand and interact with our natural environment.

Maintaining healthy ecosystems that extend into our oceans is important. Coral reef ecosystems provide benefits by protecting coastal communities, sustaining fisheries, and preserving biodiversity. Hawaii's coral reefs generate more than $360 million a year on reef related tourism and fisheries activities. To ensure this natural resource is preserved, $2.250 million is provided in this bill to conduct studies that will enable scientists to develop predictive management tools for the conservation and management of healthy coral reef ecosystems in Hawaii and develop best practices to restore reefs where human related activities result in reef ecosystem decline. This initiative will help ensure that these reefs are protected and managed well, while also empowering coastal communities across the country to minimize human impact on our reefs.

The National Oceanic and Atmospheric Administration will receive $4 million in this bill to continue the implementation of the Hawaiian monk seal recovery plan. The Hawaiian monk seal, endemic to Hawaii, is the most endangered seal in the country and one of the most endangered marine mammals in the world. In the last 50 years the Hawaiian monk seal population has fallen by 60 percent, with a current population of less than 1,200 individual seals. Funding will address female and juvenile monk seal survival and enhancement, as well as efforts to minimize monk seal mortality. Further, these funds will strengthen coordinated regional office efforts for field response teams and enhance implementation of the 2007 recovery plan.

We know that there are significant effects of climate change, especially in Hawaii and the Pacific region. As island communities, sea level rise, coral bleaching, and severe weather associated with climate change have unique impacts on the public safety, economic development, and health of our ecosystems and wildlife. Fortunately, $1.5 million is provided in the bill for the International Pacific Research Center at the University of Hawaii to conduct systematic and reliable climatographic research for the Pacific. Improving our understanding of climate variability empowers us to use data and models to mitigate adverse impacts.

Given Hawaii's geographic isolation, having warning systems in place to address public safety needs is critical. In order to focus on response and preparedness needs, I worked to ensure that $2 million was provided to foster the development of infrasound as a warning tool for natural hazards. As a joint initiative by the University of Hawaii and University of Mississippi, infrasound technology has the potential to minimize the catastrophic human and economic loss resulting from a natural disaster. The objective is to develop technologies for infrasound warning systems for emergency organizations and traffic control agencies. Potential applications of infrasound monitoring may include volcanic eruptions, gulf coast hurricane tracking, tsunami infrasound warning, acoustic monitoring of ocean swells, infrasonic tornado detection, and other natural disasters such as avalanches and wild fires. Development of this technology and lessons learned can help enhance existing warning systems nationwide.

Developing interest in science by our Nation's youth at an early age ensures that they are better prepared to pursue and excel in the fields of science, technology, engineering, and math. In an effort to cultivate a life-long interest in science and learning, $2.5 million is provided to expand astronomy and culture exhibits, as well as to develop community and educational programming at the Imiloa Astronomy Center. This endeavor is a joint initiative supported by partners including the National Oceanic and Atmospheric Administration and Hawaii Volcanoes National Park. This program will serve as a model that integrates university/research institution resources with community learning needs using the center as a catalyst to engage and educate students and the general community. Further, this initiative increases public understanding and enjoyment of science research, while supporting the national priority of attracting more students into science and technology related fields.

In conclusion, I would like to thank the senior Senator from Hawaii and the senior Senator from Mississippi, the chairman and ranking member, respectively, of the Appropriations Committee, as well as the senior Senator from Maryland and the senior Senator from Alabama, the Chairwoman and ranking member, respectively, for the Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, for their support in funding these important priorities for Hawaii and for their efforts in developing and managing this bill through the legislative process.

The PRESIDING OFFICER. The substitute amendment, as amended, is agreed to.

The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—71

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

NAYS—28

Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Bunning	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Inhofe	Sessions
Corker	Isakson	Thune
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	Lugar	

NOT VOTING—1

Byrd

The bill (H.R. 2847), as amended, was passed, as follows:

H.R. 2847

Resolved, That the bill from the House of Representatives (H.R. 2847) entitled ''An Act 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.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

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.

SEC. 533. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

REVIEW AND AUDIT OF ACORN FEDERAL FUNDING

SEC. 534. (a) REVIEW AND AUDIT.—The Comptroller General of the United States shall conduct a review and audit of Federal funds received by the Association of Community Organizations for Reform Now (referred to in this section as ''ACORN'') or any subsidiary or affiliate of ACORN to determine—

(1) whether any Federal funds were misused and, if so, the total amount of Federal funds involved and how such funds were misused;

(2) what steps, if any, have been taken to recover any Federal funds that were misused;

(3) what steps should be taken to prevent the misuse of any Federal funds; and

(4) whether all necessary steps have been taken to prevent the misuse of any Federal funds.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the audit required under subsection (a), along with recommendations for Federal agency reforms.

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

Mrs. MURRAY. I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints Ms. MIKULSKI, Mr. INOUYE, Mr. LEAHY, Mr. KOHL, Mr. DORGAN, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. BYRD, Mr. SHELBY, Mr. GREGG, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. VOINOVICH, Ms. MURKOWSKI, and Mr. COCHRAN conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. REID. Mr. President, we have one more vote tonight. In the last 24 hours we have had a lot of accomplishments that we are going to be able to point to. I appreciate the cooperation of the Republicans. We have a number of nominations we are going to be able to complete.

We are going to move, as soon as this next vote is over, to military construction. I have spoken to the Republican leader. We are going to do our best to finish that on Monday or Tuesday. We are going to have that one vote, the one vote I indicated. On Monday, at 5:30, we will have a judge vote. We will see if there is anything else we can have to vote on on Monday, but at least we will have that one at—5:30 will be fine.

Mr. President, we are going to be in Monday and Tuesday. I told everyone I thought this was going to be the day that REID finally called ''wolf'' and the wolf showed up, but it is not going to be the case. The reason it is not is because we have been able to get a lot of stuff done. I indicated to the Republican leader there were things we needed to get done. We did not get everything I wanted done, but we got things I had not put on the list done that amounts to the same.

So I am grateful for the cooperation we have gotten recently, and I look forward to a good week next week. Remember, it is only 2 days long.

EXECUTIVE SESSION

NOMINATION OF IGNACIA S. MORENO TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider a nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Ignacia S. Moreno, of New York, to be an Assistant Attorney General.

Mr. LEAHY. Mr. President, today, the Senate will confirm yet another outstanding nominee to fill a high-level vacancy at the Department of Justice. The confirmation of Ignacia Moreno to head the Environment and Natural Resources Division is long overdue. Ms. Moreno's nomination has been stalled on the Senate Executive Calendar without explanation for almost 6 weeks. Nominations for four other Assistant Attorneys General to run divisions at the Department remain stalled by Republican objections to their consideration.

I thank Senator WHITEHOUSE for chairing the Judiciary Committee hearing on this nomination on September 9. When we reported this nomination by unanimous consent—without a single dissenting vote—on September 24, I did not imagine it would not be considered by the full Senate until November.

Senate Republicans have irresponsibly held up nominations to critical posts in the Department of Justice, depriving the President, the Attorney General, and the country of the leaders needed to head key law enforcement divisions at the Justice Department. These are leaders in our Federal law enforcement efforts. Presidents of both parties, especially newly elected ones, are normally accorded significant deference to put in place appointees for their administrations.

Yet, 10 months into President Obama's first term, even after we confirm Ms. Moreno, four nominations to be Assistant Attorneys General will remain stalled on the Senate's Executive Calendar due to Republican opposition and obstruction. These are the President's nominees to run 4 of the 11 divisions at the Justice Department—nearly half. By comparison, at this point in the Bush administration the Senate had confirmed nine Assistant Attorneys General and only one nomination was pending on the Senate Executive Calendar. The difference is that the Republican minority is refusing to consider these nominations.

The nomination we consider today, President Obama's nomination of Ignacia Moreno to be the Assistant Attorney General in charge of the Environment and Natural Resources Division, has been on the Senate Executive Calendar for almost 6 weeks, even though it was reported by the Judiciary Committee without a single Republican Senator dissenting. By comparison, a Democratic majority in the Senate confirmed President Bush's nomination of Thomas Sansonetti to the position only 1 day after it was reported by the Judiciary Committee.

The President nominated Dawn Johnsen to be the Assistant Attorney General in charge of the Office of Legal Counsel at the Justice Department on February 11. Her nomination has been pending on the Senate Executive Calendar since March 19. That is the longest pending nomination on the calendar by over 2 months. We did not treat President Bush's first nominee to head the Office of Legal Counsel the same way. We confirmed Jay Bybee to that post only 49 days after he was nominated by President Bush and only 5 days after his nomination was reported by the committee. Of course, his work in the Office of Legal Counsel is now the subject of an ongoing review by the Office of Professional Responsibility.

Mary Smith's nomination to be the Assistant Attorney General in charge of the Tax Division has been pending on the Senate's Executive Calendar since June 11—nearly 5 months. We confirmed President Bush's first nomination to that position, Eileen O'Connor, only 57 days after her nomination was made and 1 day after her nomination was reported by the Committee. Her replacement, Nathan Hochman, was confirmed without delay, just 34 days after his nomination.

Chris Schroeder's nomination to be the Assistant Attorney General in charge of the Office of Legal Policy has been pending on the Senate Executive Calendar since July 28. It was reported by voice vote without a single dissenting voice. President Bush's first nominee to head that division, Viet Dinh, was confirmed 96 to 1 only 1 month after he was nominated and only a week after his nomination was reported by the committee. The three nominees to that office that succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisabeth Cook—were each confirmed by voice vote in a shorter time than Professor Schroeder's nomination has been pending. Ms. Cook was confirmed 13 days after her nomination was reported by the committee, even though it was the final year of the Bush Presidency. By contrast, the majority leader may have to file another cloture position in order to overcome Republican obstruction and obtain Senate consideration of Professor Schroeder's nomination.

Instead of withholding consents and filibustering President Obama's nominees, the other side of the aisle should join us in treating them fairly. We should not have to fight for months to schedule consideration of the President's judicial nominations and nomination for critical posts in the executive branch.

Upon the announcement of her nomination, President Obama described Ignacia Moreno as a ''talented individual'' whose leadership will help us ''preserve our environment.'' I agree. Ignacia Moreno is a well-qualified nominee who has chosen to leave a lucrative private practice to return to government service.

Ms. Moreno currently works for General Electric, where she oversees that corporation's compliance with State and Federal laws. Prior to that, she spent 7 years in the Energy and Natural Resources Division, where she served as a Special Assistant and later Principal Counsel to the Assistant Attorney General. I am confident that Ms. Moreno's significant experience will be put to good use when she is confirmed to return to the Justice Department.

I congratulate Ms. Moreno and her family on her confirmation today. I thank her many supporters for helping to free this nomination for Senate consideration.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ignacia S. Moreno, of New York, to be an Assistant Attorney General?

Mr. CARDIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''yea.''

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—93

Akaka	Feingold	Menendez
Alexander	Feinstein	Merkley
Barrasso	Franken	Mikulski
Baucus	Gillibrand	Murkowski
Bayh	Graham	Murray
Begich	Grassley	Nelson (NE)
Bennet	Gregg	Nelson (FL)
Bennett	Hagan	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Risch
Brown	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Bunning	Johanns	Sanders
Burr	Johnson	Schumer
Burris	Kaufman	Sessions
Cantwell	Kerry	Shaheen
Cardin	Kirk	Shelby
Casey	Klobuchar	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Collins	Lautenberg	Tester
Conrad	Leahy	Thune
Corker	LeMieux	Udall (CO)
Cornyn	Levin	Udall (NM)
Crapo	Lieberman	Vitter
Dodd	Lincoln	Warner
Dorgan	Lugar	Webb
Durbin	McCain	Whitehouse
Ensign	McCaskill	Wicker
Enzi	McConnell	Wyden

NOT VOTING—7

Byrd	DeMint	Voinovich
Carper	Isakson	
Chambliss	Landrieu	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 3082, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department Of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

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

AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I call up amendment No. 2730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for himself and Mrs. HUTCHISON, proposes an amendment numbered 2730.

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

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

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

Mr. JOHNSON. Mr. President, I am pleased to present the fiscal year 2010 Military Construction, Veterans Affairs, and Related Agencies appropriations bill. The bill was unanimously reported out of committee on July 7. It is a well balanced and bipartisan measure, and I hope all Senators will support it.

I thank my ranking member, Senator HUTCHISON, for her help and cooperation in crafting the bill. Senator HUTCHISON's dedication to America's veterans and to our military forces has been a tremendous asset in developing this bill. I also thank Chairman INOUYE and Vice Chairman COCHRAN for their support and assistance in moving this bill forward.

The Military Construction and Veterans Affairs bill provides critical investments in capital infrastructure for our military, including barracks and family housing; training and operational facilities; and childcare and family support centers. In addition, it fulfills the Nation's promise to our veterans by providing the resources needed for the medical care and benefits that our veterans have earned through their service.

The bill before the Senate today provides a total of $134 billion in funding for fiscal year 2010. This includes $76.7 billion in discretionary funding—$439 million over the budget request; $1.4 billion for overseas contingency operations to support our troops in Afghanistan, and $56 billion in mandatory funding for veterans programs.

In addition, I am pleased to report that, for the first time, the bill before us contains $48.2 billion in advance appropriations for veterans medical care for fiscal year 2011. This funding will ensure that the VA has a predictable stream of funding and that medical services will not be adversely affected should another stopgap funding measure be needed in the future. As an original cosponsor of the legislation authorizing advance appropriations for veterans health care, I am particularly pleased that Senator HUTCHISON and I were able to provide the funding in this bill to implement this important legislation.

Other funding priorities in the bill include $53 billion in discretionary funding for veterans programs, $150 million over the budget request and $3.9 billion more than last year; $45 billion for veterans' medical care, $4.2 billion over last year; $23 billion for military construction, $286 million over the President's budget request; $1.3 billion for Guard and reserve construction projects, $264 million above the budget request, and $279 million for related agencies, including the American Battle Monuments Commission and Arlington National Cemetery.

For fiscal year 2010, the bill provides $53.2 billion in discretionary funding for veterans programs, an increase of $150 million over the budget request and $3.9 billion over last year. This includes $44.7 billion for veterans medical care, an increase of $4.2 billion over last year.

The veterans funding also includes $250 million requested by the President for rural health care, continuing an initiative the committee began last year. To further improve outreach to veterans in rural areas, including Native Americans, the bill provides $50 million above the budget request for a new rural clinic initiative to serve veterans in rural areas currently underserved by VA facilities.

For military construction, the bill provides $23.2 billion, $286 million over the President's budget request. This includes nearly $1.3 billion for Guard and Reserve projects, $264 million above the budget request. As so many of us know, our Reserve components have provided unparalleled support to their active component counterparts in operations around the globe. Providing quality infrastructure for the Guard and Reserve is only a small token of our appreciation.

In all, the military construction projects included within this bill are as diverse as the individuals serving our Nation—from building a field training facility in North Carolina, to constructing a military school in Europe; from developing a military health clinic in Washington State to providing dining halls in forward operating locations in Afghanistan.

For the first time since the war in Afghanistan began; the President has requested war-related funding as part of the regular budget process. This year, we have incorporated projects for Afghanistan into the normal budget order by providing an overseas contingency operations account to support war fighting operations. Within this account, we supported the President's budget request of $1.4 billion for military construction projects at 22 forward operating locations in Afghanistan.

For military family housing, the bill provides $2 billion as requested. The budget request for family housing is $1.5 billion below the fiscal year 2009 enacted level, due primarily to the nearing completion of the military's housing privatization initiative and subsequent reductions in operating expenses. The privatization of military family housing has been a good news story for our military families and the American taxpayers. Our military families will get first rate housing while at the same time reducing construction and maintenance costs to the military.

Our committee mark also includes funding to complete previous and ongoing base closure actions. This bill contains $7.5 billion for BRAC 2005 as requested and $421.8 million for BRAC 1990, a $25 million increase above the request. The BRAC 2005 request is $1.3 billion below the fiscal year 2009 enacted level, reflecting reduced construction requirements.

The bill also includes $276.3 million as requested to fund the NATO Security Investment Program, NSIP. This program provides the U.S. funding share of joint U.S.–NATO military facilities.

Two military construction programs of particular importance to me are the Homeowners Assistance Program, HAP, which provides mortgage relief to military families required to relocate, and the Energy Conservation Investment Program. Building on an expansion of the HAP program that was funded in the stimulus bill, this bill adds $350 million to complete the funding requirement to temporarily extend HAP benefits to all eligible military families who have suffered losses on home sales due to the mortgage crisis. The additional funding also supports the permanent extension of HAP benefits to wounded warriors who must relocate for medical reasons and to surviving spouses of fallen warriors. As everyone knows, the mortgage crisis has had a devastating impact on many Americans, and our military families are not immune from the collapse in the housing market. In particular, military families have been adversely impacted when forced to sell their homes at a loss when required by the military to relocate either within the United Stated or overseas. In such circumstances, our military men and women do not have the luxury of waiting for the housing market to recover.

The Energy Conservation Investment Program—ECIP—is designed to promote energy conservation and efficiency, including investments in renewable and alternative energy resources, on our military installations. The subcommittee has added $135 million in funding to the President's budget request to provide for such innovations. Our bill also includes language urging the Department of Defense to develop a more comprehensive strategy to address energy conservation, energy efficiency and energy security. While I am encouraged by the efforts of the services at finding ways to reduce energy use on military installations, I worry that the Department as a whole does not have a single point of coordination that will ensure that innovative ideas and projects are shared across all of the services and within the Department.

This bill includes $26.9 million for projects at active duty installations and Guard facilities in my home State of South Dakota. This includes $14.5

million to expand the Deployment Center at Ellsworth Air Force Base; $7.89 million for the Army and Air Guard Joint Force Headquarters Readiness Center at Camp Rapid; $1.95 million for a National Guard troop medical clinic addition at Camp Rapid; $1.3 million to construct an above-ground magazine storage facility for the Air Guard at Joe Foss Field; and $1.3 million for a munitions maintenance complex addition, also for the Air Guard at Joe Foss Field.

Once again we have made veterans a top priority this year by including $53.2 billion in discretionary funding for the VA, an increase of $150 million over the budget request and $3.9 billion over last year. The Department is expecting to treat almost 6.1 million patients in fiscal year 2010; therefore we have targeted the bulk of the discretionary funding for the three medical care accounts, which total $44.7 billion this year. This includes a $3.7 billion increase over fiscal year 2009 for the medical services account.

The challenges that face the VA in the 21st century are daunting but not insurmountable. These include modernizing and transforming antiquated systems; treating combat injuries, many of which leave no physical scars; and adjusting services to meet changing demographics. The VA will have to balance the services required by aging veterans, such as long term care, with the needs required by a surge of new veterans from the wars in Iraq and Afghanistan. Moreover, as more and more women are choosing the Armed Forces as a career, the VA will need to transform from a culture dominated by services designed for men to one that includes services specific to the health care needs of women veterans. To that end, this bill includes $183 million to specifically address the unique health care needs of women veterans.

Veterans Affairs Secretary Shinseki has laid out an ambitious plan to transform the Department of Veterans Affairs into a 21st century organization. The bill before the Senate is a step in that direction by providing the VA with the resources needed to address these and other issues. For example, the bill provides $6 billion for long-term care, a $663 million increase from last year. The funding includes both institutional and home based care programs. In addition, the bill provides $115 million for grants for the construction of State extended care facilities, $30 million over the budget request. This program provides grants to State veterans homes to construct new facilities or to correct life threatening code violations.

The bill also includes $2.1 billion, $460 million above fiscal year 2009, for medical care for veterans of the wars in Iraq and Afghanistan. The VA has seen a surge of these veterans and expects to see over 419,000 this year alone, a 61 percent increase in patient load since 2008. Many of these veterans suffer combat specific injuries such as polytrauma, post traumatic stress disorder, and traumatic brain injury. The resources provided in the bill are essential to the VA's ability to treat these veterans.

As a Senator from a large, highly rural state, I have been emphatic that the VA must change its way of doing business when it comes to providing services to veterans who live well outside urban areas. Last year, as chairman of the subcommittee, I established a new rural health initiative at the VA, and provided $250 million specifically for the Department to address the gap in services that exists in rural areas. This year's bill includes an additional $250 million, as requested by the President, to continue this program. To further bolster the rural health effort, I added $50 million to the bill for a new Rural Clinic Initiative. This will provide the VA with additional funding to establish Community Based Outpatient Clinics—CBOCs—in rural areas that are currently underserved by VA health care facilities.

According to the VA, roughly 131,000 veterans are homeless on any given night. This is 131,000 too many veterans. Secretary Shinseki has made combating homelessness a top priority at the VA. To assist, the bill includes $3.2 billion for health care and support services for homeless veterans. This includes $500 million in direct programs to assist homeless veterans.

The bill also puts a priority on reducing the time it takes for veterans to receive the benefits they have earned. Funding is included which will provide the Veterans Benefits Administration with the resources to hire 1,200 new claims processors in fiscal year 2010. This will bring the compensation and pensions workforce level to 14,549 in 2010 as compared to 7,550 in 2005. This increased workforce will be necessary as claims for benefits are estimated to reach almost one million in fiscal year 2010.

The last two issues I will highlight deal with infrastructure, both capital and electronic. The VA operates the Nation's largest integrated health care system in the United Sates. It does so through a system of 153 hospitals and 1,002 outpatient clinics. These buildings must be maintained at the highest level to ensure patient safety and high quality medical care. Once again this year, the bill contains additional funding above the budget request to ensure that VA facilities do not become dilapidated and that the backlog of code violations identified in facility condition assessment reports is addressed. In total, this bill provides $1.3 billion, $300 million above the President's request, to address critical non-recurring maintenance at existing VA hospitals and clinics. Additionally, $1.9 billion is provided for the construction of new VA hospitals and clinics. The bill also includes $685 million for minor construction projects, $85 million above the President's request.

Funding for bricks and mortar and recapitalization is not the only infrastructure investment made in the bill. In the 21st century, health care delivery is dependent on modern technology and robust information technology. Therefore, we have included $3.3 billion for the Department to modernize its information technology programs, including its electronic medical records, a new paperless claims system, and systems designed for seamless integration of medical and service records with the Department of Defense.

Finally, the bill provides $279 million for a handful of small but important related agencies, including the American Battle Monuments Commission and Arlington National Cemetery.

Next Wednesday is Veterans Day, a day on which the Nation honors all those who have served in the armed forces of the United States. I can think of no better way to express the Senate's gratitude for the service of our veterans and the sacrifices they have made for our country than to pass this bill without delay. Again, I thank my ranking member for her support in crafting the bill. I also thank the staff of the subcommittee—Christina Evans, Chad Schulken and Andy Vanlandingham of my staff, and Dennis Balkham and Ben Hammond of the minority staff—for their hard work and cooperative effort to produce this bill.

Mr. President, I want to express my sorrow at the tragic events that unfolded at Fort Hood, TX, this afternoon. I extend my condolences to the troops and families at Fort Hood, and to my ranking member Senator HUTCHISON. Our thoughts and prayers are with her and with the Fort Hood community in this difficult time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, suddenly I find myself a member of the powerful Appropriations Committee, but it comes under a dark cloud indeed. The distinguished chairman, who does such a great job in behalf of our veterans and military construction, has pointed out the terrible tragedy that has happened at Fort Hood. So I am here standing in, if you will, for Senator HUTCHISON, who does such a good job, in partnership with my colleague and my friend and my neighbor, whom I respect a great deal. So I appreciate the opportunity to speak on the bill before us.

As Senator HUTCHISON departs as early as she possibly can to get to Texas to assist in the challenge of this great tragedy, we wish her well, and our prayers are with her and all the people at Fort Hood and all the people in Texas.

As the distinguished chairman has stated, a lot of time and energy have gone into putting this legislation together. Senator HUTCHISON wanted to thank Chairman JOHNSON and his staff for working hard to address the needs of our servicemembers and veterans. I am going to repeat just a couple of things that are in the full statement of the distinguished Senator from Texas.

As Chairman JOHNSON has pointed out, the Military Construction, Veterans Affairs, and Related Agencies appropriations bill includes for fiscal year 2010 $76.7 billion in discretionary spending, $23.2 billion for military construction, $53.2 billion for our veterans, $55.8 billion in mandatory spending for veterans' benefits, and $1.4 billion for military construction projects to assist our troops in Afghanistan in their fight against terrorism.

A lot of the figures Senator HUTCHISON has here have been mentioned by the distinguished chairman, so I won't go into those, but Senator HUTCHISON wanted to indicate and wanted to highlight that she was very pleased that the bill provides full funding for the base realignment and closure actions. The funds are essential to bringing our troops home, predominantly from Europe and Korea, and basing them in the United States. By fully funding BRAC, we can help the Department of Defense to stay on schedule to achieve this goal by September of 2011.

Senator HUTCHISON would also like to highlight that the legislation contains the necessary funds for the Defense Department program especially designed to help our servicemembers who were forced to relocate in this harsh economic housing environment—I might add that we see this at Fort Leavenworth and Fort Riley as well in Kansas—the Homeowners Assistance Fund. Chairman JOHNSON has been absolutely instrumental in making this program a success.

The legislation contains about $1.4 billion in emergency funding for the war in Afghanistan. Senator HUTCHISON, myself—almost every Senator knows that the policies of this conflict have been passionately debated on the Senate floor in recent days, but I am sure we can all agree that independent of our views on the war or the strategy of that national security threat, we must provide the infrastructure needs of our sailors, soldiers, airmen, and marines, who, by the way, celebrated their birthday today. This bill does just that.

In addition, I would point out that the distinguished ranking member wanted to express her strong commitment to making sure that our NATO allies—our NATO allies—fund their fair share of these joint projects.

The chairman has already gone over the figures for the Department of Veterans Affairs, although Senator HUTCHISON did want to point out that it includes funding to enhance outreach and services for mental health care, combat homelessness, further meet the needs of women veterans, and expand our health care to rural areas—something the chairman knows all about, something which I like to think I know something about, and something that I know Senator HUTCHISON knows about a great deal.

Finally, we have included $48.2 billion in advanced appropriations for veterans' medical care for fiscal year 2011. This funding will allow the VA to better plan the budget for our veterans' health care.

Congress has shown its resolve time and again to care for our Nation's veterans and provide the infrastructure for our men and women in uniform. We all owe them a debt of gratitude and will do our part to take care of them.

So I ask my colleagues to support this bill. We have no objection on this side.

Again, I wish to thank the distinguished chairman for all of his work and leadership.

I yield the floor.

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

• Mrs. HUTCHISON. Mr. President, as the ranking member of the Military Construction, Veterans Affairs, and Related Agencies Subcommittee, I appreciate the opportunity to speak on the bill before us. A lot of time and energy has gone into putting this legislation together, and I would like to thank Chairman JOHNSON and his staff for working hard to address the needs of our service members and veterans.

This is a bipartisan bill, and I can say with great confidence that this subcommittee makes sure that the priorities of all Senators, on both sides of the aisle, are evaluated and taken care of to the best of our ability.

As Chairman JOHNSON has pointed out, this Military Construction, Veterans Affairs, and Related Agencies Appropriations bill includes, for fiscal year 2010: $76.7 billion in discretionary spending, including $23.2 billion for military construction and $53.2 billion for our veterans; $55.8 billion in mandatory spending for veterans' benefits, and $1.4 billion for military construction projects to assist our troops in Afghanistan in their fight against terrorists and insurgents.

This legislation provides $23.2 billion for the Defense Department's military construction program. I am concerned that the DOD requested over $7 billion less for 2010, a 25 percent decrease from the previous year, and I hope this trend does not continue. Of all the funds we provide for our government, supporting the infrastructure needs of our soldiers is one of the most important I can think of.

I am pleased that our bill provides full funding for the Base Realignment and Closure actions at almost $7.5 billion. These funds are essential to bring our troops home, predominantly from Europe and Korea, and basing them in the United States. By fully funding BRAC we can help the DOD stay on schedule to achieve this goal by September 2011.

I wish to point out as well that our legislation contains the necessary funds for the Defense Department program specially designed to help our service members who are forced to relocate in this harsh economic housing environment, the Homeowners Assistance Fund. Chairman JOHNSON has been instrumental in making this program a success.

This bill funds the Guard and Reserve at $264 million above the President's request. A significant number of the troops fighting the war on terror consist of Guard and Reserve members, so I am very glad we were able to provide additional resources for them.

This summer, as our Nation was preparing for its Fourth of July celebrations, I had the honor of visiting our troops in Iraq and Kuwait. I listened to their concerns and saw first hand how the facilities we provide in this bill are instrumental in their ability to carry out their mission.

This legislation contains almost $1.4 billion in emergency funding for the war in Afghanistan. The policies of this conflict have been passionately debated on the Senate floor in recent days. But I am sure we can all agree that—independent of our views of the war—we must provide the infrastructure needs of our sailors, soldiers, airmen and marines. This bill does that.

In addition, I would like to point out that this subcommittee is committed to making sure that our NATO allies fund their fair share of all joint projects. I can assure my colleagues, and the American people, that every MILCON facility shared by allied forces is evaluated for NATO reimbursement and that we push hard for cost sharing at every possible opportunity.

Our bill provides $109 billion for the Department of Veterans Affairs, a 14 percent increase above fiscal year 2009. Veterans' healthcare is funded at $45 billion, and medical research is funded at $580 million. This bill also makes a significant investment in VA infrastructure needs, with nearly $5 billion for the maintenance and repair of VA medical facilities and $2 billion in new construction projects.

The Veterans Benefits Administration is funded at $56 billion to administer compensation, pension, and readjustment benefits earned by our veterans. We have fully funded the new education benefits provided by the post–9/11 educational assistance program, and included funding for 1,200 new claims processors to reduce the claims backlog.

This legislation addresses the many demands facing the Department of Veterans Affairs. It includes funding over 2009 levels to enhance outreach and services for mental health care, combat homelessness, further meet the needs of women veterans, and expand access to healthcare in rural areas. Finally, we included $48.2 billion in advance appropriations for veterans' medical care for fiscal year 2011. This funding will allow the Veterans Health Administration to better plan and budget for veterans' health care.

Congress has shown its resolve time and again to care for our nation's veterans and provide the infrastructure for our men and women in uniform. We

owe all of them our gratitude, and we will do our part to take care of them. I ask my colleagues to support this bill.

Again, I would like to thank Senators INOUYE and COCHRAN for their support putting this bill together, and I would especially like to thank Chairman JOHNSON for his leadership and the hard work of his staff: Christina Evans, Chad Schulken, and Andy Vanlandingham.●

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

AMENDMENT NO. 2732 TO AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I send an amendment to the desk on behalf of myself and Senator HUTCHISON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for himself and Mrs. HUTCHISON, proposes an amendment numbered 2732 to amendment No. 2730.

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

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

The amendment is as follows:

(Purpose: To make a technical amendment regarding the designation of funds)

On page 56, between lines 9 and 10, insert the following:

SEC. 401. Amounts appropriated or otherwise made available by this title are 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.

Mr. JOHNSON. Mr. President, this amendment is a technical amendment which provides for the proper designation for title IV of the bill, Overseas Contingency Operations. This information was inadvertently left out of the bill. An amendment would correct this error.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON. 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. JOHNSON. Mr. President, I believe it has been cleared by both sides. I ask unanimous consent that the amendment be agreed to.

Mr. ROBERTS. Will the chairman yield?

Mr. JOHNSON. Yes.

Mr. ROBERTS. The chairman has accurately described the contents of the amendment. We have no objection and ask that it be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2732) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Mr. President, with respect to amendment No. 2732, I move to reconsider and table the vote on adoption of the amendment.

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

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

On July 7, 2009, the Senate Appropriations Committee reported S. 1407, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010. The reported bill contains $1.399 billion in funding that the Senate Appropriations Committee intends to designate for overseas deployments and other activities pursuant to section 401(c)(4). An amendment has been offered that provides a designation consistent with section 401(c)(4). The Congressional Budget Office estimates that the $1.399 billion in budget authority will result in $145 million in new outlays in 2010. As a result, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays by those amounts in 2010. When combined with previous adjustments made pursuant to section 401(c)(4), $129.999 billion has been designated so far for overseas deployments and other activities for 2010.

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

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

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

[In millions of dollars]

	Current allocation/limit	Adjustment	Revised allocation/limit
FY 2009 Discretionary Budget Authority	1,482,201	0	1,482,201
FY 2009 Discretionary Outlays	1,247,872	0	1,247,872
FY 2010 Discretionary Budget Authority	1,218,252	1,399	1,219,651
FY 2010 Discretionary Outlays	1,376,050	145	1,376,195

HEALTH CARE REFORM

Mr. BROWN. Mr. President, I rise again this evening, as I have many days in the last couple of months, to share with my colleagues letters from people in Ohio—from Bucyrus, Lima, Springfield, and Zanesville—people who are sharing their stories with us.

As I have been in the Senate now for 3 years, it occurs to me that perhaps more often than not, we talk about policy up here, but we simply do not pay enough attention to individual problems and individual people. That is why a lot of people think their elected officials are out of touch with them. These letters really do share with us where we are, what we ought to do, and how we should respond as we move forward on the health issue.

This letter comes from Ann from Montgomery County. She writes:

Our insurance premiums have nearly tripled in the last 6 years, going from $500 per month to $1,500 per month. At the same time, none of our benefits have increased. Since we bought our policy, we have paid the insurance company $68,000 for the insurance. Anthem's total spending for my family's claims since we bought the insurance: $4,064.24. Anthem's profit from my family: $64,000. Anthem's CEO's total compensation last year alone: $10 million.

Ann from Montgomery County, Dayton, Huber Heights, Centerville, Oakwood—that area of the State, southwest Ohio. Obviously, Ann is angry and frustrated with what she has seen. She has paid so much for insurance, gotten so few benefits, and she sees Anthem's CEO taking down $10 million a year.

What we see repeatedly in the insurance industry, the average CEO salary for the biggest 11 insurance companies is $11 million a year. Insurance company profits have gone up more than 400 percent in the last 7 years.

The way they make this money is this kind of business model where they hire a huge bureaucracy, a bunch of bureaucrats to keep people from buying insurance if they are sick. They discriminate based on gender. They discriminate based on age. They discriminate based on disability. In some cases,

they use the excuse of preexisting condition to keep people from buying policies, including, believe it or not, women who have been victims of domestic violence. Some insurance companies consider that a preexisting condition. If their husband hit them once, they might hit them again, and that would be a cost to the insurance company. They cannot get insurance. Sometimes a woman who has had a C-section is a preexisting condition. She cannot get insurance because if a woman has had a C-section, she might get pregnant again and need another one. That is too expensive. They don't give her insurance. That is how Anthem and these other companies make these kinds of profits, because they hire bureaucrats to keep you from buying insurance if you have a preexisting condition.

On the other end, they hire more bureaucrats to reject your claims when you have been sick. Oftentimes the insurance company records show that about 30 percent of all claims are rejected initially. Sometimes they are appealed and then they pay these claims. But then you as the patient or you the family of a sick husband, wife, child have to spend your time on the phone fighting with the insurance company while at the same time you are trying to nurse your husband, wife, child, or mother. What kind of system is that, that we allow these insurance companies to do that.

What I found in these letters, in the last 3 months I have been doing this on the Senate floor, is a couple of things. One is, consistently people were pretty happy with their insurance, if you asked them a year or two earlier, but then they got sick and they found out their insurance wasn't what they thought it was. That frustration and anger builds from that.

Another thing I found is that people in their late fifties and sixties have lost their insurance, they have lost their jobs, their insurance is canceled or their employers cannot afford it because they are a small business, they don't have insurance, they are 58, 62 years old, and they just hope they can hang on until they are Medicare eligible or until they can get a stable public plan, such as a public option, such as Medicare.

I will share two more letters.

John from Richland County—that is my home county. I grew up in Mansfield. There is Shelby, Lexington, Butler—north central Ohio.

> Health care reform will not be achieved unless a public option is in place to compete with insurance carriers. I recently retired after 45 years as a family physician. If government-run medicine is so bad, why should insurance companies object to the competition? Cost and treatment is already controlled by the insurance providers whose only motive is profit.
>
> Allowing the insurance industry to dictate terms of cost and treatment has not worked and will not work. Please fight for a public option.

John, a physician of 45 years, absolutely gets it. He says something interesting. I hear opponents of the public option, a lot of conservatives say government cannot do anything right, they mess everything up, and then they say that if we have a public option, they will be so efficient that they will run private insurance out of business. So which is it—the government cannot do anything right or the government is so efficient, it is going to run private insurance out of business?

The point is, insurance executives' average salary is $11 million. Insurance companies' profits are up 400 percent in the last 7 or 8 years. Insurance companies don't want the public option because you know what will happen—their profits won't be quite as high. They won't go up 400 percent. Salaries won't be as high because they have competition from the public option. They know they will be in a situation where life is not going to be quite as good for insurance companies and insurance executives. That is why they don't like the public option. That is why they fight the public option. And we know that is why the public option will work. It will mean more choice for consumers.

In southwest Ohio, two companies have 85 percent of the insurance policies. A public option will provide competition, will stabilize prices, which means prices will come down and quality will be better. If you have two companies controlling 85 percent of the business in Cincinnati, Batavia, Lebanon, Hamilton, Littleton, Fairfield, or any of those counties, you have two companies controlling 85 percent of the business, you know the quality is lower and prices are too high.

Let me conclude—Senator CASEY is here. He more than any single Senator has spoken out strongly and fought successfully to make sure this health care bill works for our Nation's children, from when we passed the SCHIP back months ago to the health care bill on which my colleague from Pennsylvania has done remarkable work. Let me read one more letter and turn to him.

Cheryl from Cuyahoga County in northern Ohio, the Cleveland area, writes:

> My daughter is paying costly health care out of her own pocket to treat her depression. Despite getting a new job, she was told her condition is preexisting and would not be covered.
>
> After struggling for a year to find a good job, she doesn't need this preexisting condition to shadow her.
>
> I, too, have a preexisting condition of breast cancer. Please stop insurance companies from denying insurance due to preexisting conditions.

This letter again shows this insurance reform—our health care bill makes so much sense. I am hearing from hundreds and hundreds of them from Gallipolis, Pomeroy, along the Ohio River to Lake Erie, Lake County, to the Indiana border, Troy, Preble County—all over—that too many people are denied coverage because of a preexisting condition.

Why does it make sense that people who are sick or maybe are going to get sick cannot get insurance? Why does it make sense that they would have to pay so much, they simply cannot qualify or literally cannot get it no matter how much they pay?

One of the important things about our bill is that it will outlaw—there will be no more exclusions for preexisting conditions. Nobody will be prohibited from getting insurance because of a preexisting condition, including women who have been victims of domestic violence, women who have had C-sections, men who have had colon cancer, whatever, No. 1.

No. 2, nobody will be denied care because of discrimination, because of their disability, because of their age or their gender or their geography.

No. 3, nobody will have their insurance policy rescinded. That is what the insurance companies say when they take away your insurance. Nobody will have their policy rescinded because they got sick and it was a very expensive illness they had and the insurance companies want to cut them off.

In addition to these changes in the law that we are going to do with insurance reform, the public option will make sure these rules are enforced, that people simply can't game the system. The insurance companies will not be able to game the system the way they have.

It makes so much sense to pass this bill. It is going to mean people who have insurance and are happy with it will be able to keep their insurance and have consumer protections. Small businesses will get help with tax incentives and other things to insure their employees. And it will mean those without insurance can get insurance and have the option of going to Medical Mutual, CIGNA, BlueCross, Aetna, WellPoint, or the public option and have that choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise tonight to speak about the health insurance reform bill that will eventually come before the Congress. We have a process underway in the Senate that is still playing out. We don't have a bill, but I think we are cognizant of the fact that we need to talk about the challenge we face with regard to health care, as well as talk about some good ideas to confront this challenge.

I commend my colleague from Ohio, Senator BROWN, who has led the fight on making sure the public option is a priority. From day one, he not only has led this fight, but also from day one, way back in the summer when we were actually working on language in the Health, Education, Labor,and Pensions Committee, he and others sat down to actually rewrite that section. We are grateful for his leadership and for his ability to relate to us what a public option means to real people—not the concept, not only the policy of it, but what

it means to real people and real families. I commend him for that great work.

One of the areas I have tried to spend as much time as possible on is the question of what happens with regard to our children. Will children at the end of this process be better off or worse off, especially in the context of children who happen to be vulnerable because of income? We are concerned about poor children and children with special needs in particular.

I believe one of the principles—or maybe the better word is a goal—that we must meet at the end of the road, when we have a bill that gets through both Houses of Congress and goes to the President, when a bill gets to the President of the United States, President Obama, for his signature—and I believe we will get there; it is going to take some time and we are going to be continuing to work very hard in the next couple of weeks to get that done. But when that bill gets to President Obama, I believe we have to make sure in this process over these many months of work—and for some people, many years—we have to make sure that bill ensures that no child, especially those who are vulnerable, is worse off. I believe we can get there. I believe we must get there. I believe we have an obligation, especially when it comes to vulnerable children, poor children, and those with special needs.

To set forth a foundation for that, I submitted a resolution several months ago, resolution 170. I won't read it or review it tonight, but it was a resolution that focused on that basic goal of making sure no child was worse off. I was joined in that resolution by Senator DODD, then-chairman of our health care reform hearings, this summer. Senator ROCKEFELLER also was a cosponsor of this resolution, someone who has led on not just health care issues in the Finance Committee but also in a very particular way he stood up for children, as has Senator DODD—both Senators in their many years in the Senate.

We just heard from Senator BROWN. He was a cosponsor of this joint resolution for children, as well as Senator SANDERS from the State of Vermont and Senator WHITEHOUSE from Rhode Island. Those five Senators joined with me in this resolution which I believe is the foundation for what we have to do with regard to children.

The chart on my left is a summation of some of the things we just talked about. First of all, this first point with regard to our children, children are not small adults. It seems like a simple statement. It seems very much self-evident, but, unfortunately, we forget that. I think we forget it once we become adults. But even in the context of health care reform, we cannot just say this is a health care strategy or program or manner of delivering care or a treatment option or a way to cover more Americans with regard to health care, so if it applies to an adult it will work for children. Unfortunately, because they are not simply small adults, we have to have different strategies for children that differ from the way we approach the challenge in providing health care for adults.

The second bullet: Children have different health care needs than do adults. I think that is a basic fundamental principle; that children have to be approached in a different way. The treatment is different, the prevention strategies are different, and sometimes the outcome of a health care treatment or strategy is different.

It is also critical that all children, particularly those who are most disadvantaged, get the highest quality care throughout childhood. And that is the foundation of that resolution.

When it comes to health care reform generally, but in particular with regard to our children, we have to get this right. We can't just say: Well, we tried, and we tinkered with some details or some programs, and we did our best. When it comes to health care for children, not only for that child or his or her family or the community they live in—and we tend to forget this—but also our long-term economic strength is predicated in large measure, in my judgment, on how we care for our children, and especially the kind of health care our children will receive. So we have to get this right for our kids, for their families, and for our economy long term.

Fortunately, we have made great strides over the last 15 years. Really even less, maybe the last 12 years we have made great strides on children's health insurance. President Clinton signed a law passed by Congress in 1997 creating a nationwide Children's Health Insurance Program—the so-called CHIP program. In that case, we had something that had its origin in the States.

My home State of Pennsylvania started one of the largest, if not the largest, children's health insurance efforts in the Nation, and that was built upon by way of Federal legislation so that we now have had a program in existence since about 1997 nationally where millions of children have health care because we made them a priority.

In Pennsylvania, for example, we have had, fortunately, a diminution, a decreasing number of children who are uninsured, to the point where last year, when there was a survey done for the State of Pennsylvania, the uninsured rate for children was 5 percent. That is still too high, but it is lower than it used to be. We want to bring that, obviously, to zero, but we have a 5-percent rate of uninsured children in Pennsylvania and 12 percent uninsured for people between the ages of 19 and 64.

For children and for citizens over the age of 64—65 and up—we have had strategies for both those age groups; children more recently, with regard to children's health insurance, as well as Medicaid for low-income children, and also, we have had Medicare for our older citizens. But the problem is that age category in the middle, that vast middle age group of 19 to 64. We haven't had a strategy recently, or over many decades, and that is one of the many reasons we are talking about health insurance reform for everyone but especially for those who are in that age category.

With regard to children, we have to make sure what we know works stays in place. We have plenty of data to show that children with health care coverage do better than children without health care coverage. That is irrefutable. It is absolutely indisputable now. I don't think anyone would dispute that as a matter of public policy. Children with insurance are more likely to have access to preventive care.

A major part of our reform effort—and the major part of the HELP bill we passed this summer—is all about prevention. Children in public programs are 1½ times more likely to obtain well-child care than uninsured children. What does that mean? Well, it is simple. The experts tell us children enrolled in the CHIP program—or SCHIP, as we sometimes call it—in their first year of life have six well-child visits to the doctor. That is fundamentally important. It can alter in a positive sense that child's destiny. Their future can be determined in the first couple of weeks and months, and certainly the first year of life. It is good for that child in the first year of life to go to the doctor at least six times for a well-child visit, as they do in the CHIP program. It is important that we have prevention strategies in place for that child in the very early months of that child's life, but certainly in the first year.

Here is another chilling statistic. Uninsured children are 10 times more likely to have an unmet health care need than insured children—not double or triple but 10 times more likely to have an unmet health care need.

We hear some people in this debate say: Well, that is about someone else. That is about some other family, someone else's child. That is not our problem.

Well, it actually is your problem. Even if you have no compassion, even if someone out there says: Well, that is not my problem; that is someone else's problem.

It is your problem because for every child who has no insurance, and as a result has no well-child visits to the doctor or does not get to the dentist or does not get preventive care, there is, in some way, an adverse impact on our economy. Think about it long term. If you are running a company, who do you think will be a stronger employee for you or a more productive employee, someone who got good health care in the dawn of their life—as Hubert Humphrey used to say—or someone who didn't get that kind of health care or nutrition or early learning?

All these things we talk about have ramifications for our long-term economy because of our workforce. To have a high-skilled workforce, you have to have access to health care. So that number of 10 times more likely to have an unmet health care need for the uninsured child versus the child with insurance is chilling. It is one of those numbers that alone should compel us, should motivate us to pass this bill.

Insured children are better equipped to do well in school. Uninsured children, with poorly controlled chronic diseases, such as asthma, can suffer poor academic performance if their health care condition causes them to miss many days of school. We know that. This is not news, but, unfortunately, we have allowed conditions to persist in our system where a child doesn't get the kind of care they need, and that allows their asthma or other condition to be made worse. Insurance improves children's access to the medications and treatments they need to control chronic diseases, allowing them to miss fewer days of school. We know that is the case.

The chart on my left gives a brief overview of a Johns Hopkins University study published in the New York Times on October 30, just a few days ago, which states that hospitalized children without insurance are more likely to die. So this isn't just about a child getting a slower start in life because they didn't have health care or a child not having a B average in school because they didn't get health care or missing days from school. All of that is terrible for that child and for that family, but this is a lot worse than that. This is literally about the life and death of a child, according to this study and others as well.

Mr. President, I ask unanimous consent to have printed in the RECORD an article dated October 30, 2009, in the New York Times with the headline: ''Hospitalized Children Without Insurance Are More Likely to Die, a Study Finds.''

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

(See Exhibit 1.)

Mr. CASEY. This is what the article says:

> Researchers at Johns Hopkins Children's Center analyzed data from more than 23 million children's hospitalizations in 37 states from 1988 to 2005.

This wasn't a quick survey, Mr. President. This was a detailed study of millions of records over that long a time period. Continuing the quote:

> Compared with insured children, uninsured children faced a 60 percent increased risk of dying, the researchers found.

So this research showed a 60-percent increased risk of dying. That is what we are talking about. This isn't theoretical. This isn't some public policy argument we have pulled down from a public policy report. This is about life and death for children. We are either going to stay on the course we have been on with regard to children, making improvements, strengthening a program like CHIP, or we are not. I think it is vitally important that we continue to make progress as it relates to children's health insurance.

So this is fundamental to this discussion about health care reform, and sometimes a study or a chart or a public policy report doesn't tell us nearly enough. Sometimes the life of a person says it best.

Senator BROWN has been highlighting letters that he has received from people in the State of Ohio, and people in Pennsylvania have written to me or sent an e-mail or appeared in my office and relayed their own stories. In this case, when it comes to real families and real children, it is especially important to highlight them.

I just have one example to share tonight. I received a letter from a Pennsylvania resident named Denise Lewis. Denise has four children who are now older, but when she contacted us, she was recalling what she went through with her four children in terms of health care. All through their childhood, Denise and her husband struggled with being either uninsured or underinsured. What health insurance they have had has always been employer-based but often was limited and only covered hospitalizations. Her family couldn't afford the premiums on more expensive coverage, and much of this, unfortunately, was before the Children's Health Insurance Program was in effect. Her family never qualified for any other kind of assistance.

She said she would work a second job part time as a waitress so they could afford food and to pay off medical bills. Today, even though her youngest is 19 years old—her youngest child of the four is 19 years old today—she is still sending monthly checks to her pediatrician to pay for all the care her children received.

Imagine that, all these years later, because of the system we have. Goodness knows there are great parts to our system that we should celebrate and be proud of, but there are a lot of parts of our health care system which simply don't work for too many Americans and is hurting families, hurting businesses, and killing our ability to grow our economy long term, and this is one example.

Why should Denise Lewis or anyone have to worry like this, have to choose between food and getting medical care or paying for a hospital visit? Why should anyone have to pay off medical bills years and years later for children who are already grown?

At times, Denise said the medical care her children needed would actually determine what food the family ate that week. They managed to make ends meet but never had any money for extras of any kind.

Listen to this in terms of what Denise said, and these are her words:

> Wondering whether you should go to the doctor is completely different from wondering whether your kids should go to the doctor.

That is the nightmare that too many families are living through. There are those who say: Well, let's just think about it for another 6 months. Some are saying: Let's not pass a bill. Let's slow it down. It's too complicated. We can't do this.

For those who are saying that, I would ask them if they have ever had to face that decision—the question of what kind of care their child would get. Had they ever faced the dilemma of how much your family can eat in a particular week or can you pay for a doctor's visit?

Denise Lewis, one of her children had frequent ear infections as a baby, and more than once she would call the pediatrician and ask if she could get a prescription without coming to the office so she wouldn't have to pay for the office visit.

Why have we tolerated this, year after year and decade after decade, of people telling stories such as this? The Congress of the United States, year after year, has said we will get to that later; it is too complicated. Why should any parent, mother or father, single parent—why should any parent have to make those choices or say to a pediatrician can I get a prescription without coming to the office because I can't afford the office visit?

We are the greatest country in the world. We have all the benefits of the wonders of technology and great doctors and dedicated and skilled nurses, great hospitals and hospital systems, all this brainpower and talent and ability—ability to cure disease. Yet on the other side of our system we tell people you have to pay more for a doctor visit for your child. Why did we allow this to happen? Year after year, we have just allowed the problem to persist.

Our system has said to women, you should engage in some preventive strategy. With regard to breast cancer, you should get a mammogram. Then we say you have to pay for all or most of it. Why do we do that? Why should we allow that to continue?

I want to move to two more charts. I know I am over my time a little bit. Let me go to the next chart. I really believe, when we describe some of these challenges, we are talking about, really, a national tragedy, that the children in our country should be reduced to having the emergency room as their primary care physician or their doctor's office.

When we were growing up, we knew what it was like to go to the doctor, but for too many children the emergency room is the doctor's office. That is not good for the child because that usually means they are further down the road for a condition or problem; they are sicker and have more complications. It is also bad for how we pay for health care.

We also know the emergency room care by uninsured Americans with no place to go but an emergency room is one of the biggest drivers of the out-of-

control costs we often see in our system. That is why we need health care reform now.

We now cover about 7 million children in CHIP. Thankfully, fortunately, we reauthorized it in 2009. It kind of went by people pretty quickly, but that was a major achievement. That bill went through and the President, President Obama, signed it into law. By virtue of that one signature and the work that led up to that, those 7 million who are covered now by CHIP will double by 2013 to 14 million children who will be covered by that program.

But even with that reauthorization, there are still things that will challenge us with regard to the Children's Health Insurance Program. One of them is a failure that could take place over time where we do not strengthen the Children's Health Insurance Program.

I meant to highlight this chart as well: ''Uninsured low-income children are four times as likely to rely on an emergency department or have no regular source of care.'' That is the point I wanted to make about emergency room visits.

Finally, let me move to the fourth chart. Not only is this program, the Children's Health Insurance Program, a major success across the country, but it has reduced the rate of uninsured children by more than one-third. As we can see by this chart on my left, insuring children is something people across America strongly support. Prior to the amendments and the markup process in the Finance Committee this fall, there was a proposal to move the Children's Health Insurance Program into the health insurance exchange as part of the Finance Committee bill. Many members of that committee, and others like me and others, didn't think that was a good idea. Senator JAY ROCKEFELLER was another and, fortunately, he was on the Finance Committee. His amendment in that committee fortunately removed the Children's Health Insurance Program from the exchange.

Why was that important? The data is overwhelming that placing families that are covered by the Children's Health Insurance Program into that newly created insurance exchange would, in fact, increase their costs and decrease their benefits. There was a debate about it, but I think the Finance Committee did the right thing. By keeping the Children's Health Insurance Program as a stand-alone program that we know works—all the data shows it. It is not an experiment. It is not a new program. We have had more than a decade of evidence that shows that it works. We have to keep that in the final bill. We have to keep that as a stand-alone program, and we have some work to do to make sure that happens.

When you see the numbers here, an overwhelming three to one majority, 62 percent to 21 percent of Americans, would oppose the elimination of the Children's Health Insurance Program if they learned that a new health insurance exchange ''may be more costly for families and provide fewer benefits for children.'' We have to make sure when we get to the point of having a final bill worked out that we keep that in mind.

We know for now that we have a stand-alone program. Thank goodness that change was made. We know it works. But we have to do everything we can to strengthen the Children's Health Insurance Program, because in the coming years there will be recommendations to change it. There will be others who will make suggestions about how the Children's Health Insurance Program fits into our health care system, and we have to be very careful about how we do that.

But for now I want to emphasize two points and I will conclude. A commitment to that basic goal that no child at the end of this is worse off, especially vulnerable children who happen to be poor or have one or more special needs—we have to make sure that happens. We also have to reaffirm what I think is self-evident and irrefutable. The Children's Health Insurance Program works. We have to keep it as a stand-alone program, and we have to continue to strengthen it because there are some changes we can make to strengthen it.

I look forward to working with our colleagues in the Senate to meet those goals. I know the Presiding Officer has a concern about this as well. He has been a great leader on health care in his first year in the Senate. I thank him for his work.

I will conclude with this. In the Scriptures it tells us ''A faithful friend is a sturdy shelter.'' We have heard that line from Scripture. We have heard it other places as well. We think of a friendship as a kind of shelter when things get difficult, when life gets difficult. One of the questions we have to ask ourselves in this debate is, Will the Congress of the United States really be a friend to children? Will we be that faithful friend who acts as a sturdy shelter? Because children can't do it on their own; we have to help them. I believe by getting this right we can be that faithful friend and we can be that sturdy shelter for our children.

Let it be said of us many years from now, when people reflect upon how this debate took place and what we passed, in terms of health care reform—let it be said of us, when our work is done, that we, all of us as Members of the Senate and Members of the Congress overall, that we created at this time, at this place, a sturdy shelter for our children and that we can say that with confidence and with integrity.

[From the New York Times, Oct. 30, 2009]

EXHIBIT 1.

HOSPITALIZED CHILDREN WITHOUT INSURANCE ARE MORE LIKELY TO DIE, A STUDY FINDS

(By Roni Caryn Rabin)

Nicole Bengiveno/The New York Times Researchers analyzed data from more than 23 million children's hospitalizations from 1988 to 2005.

Uninsured children who wind up in the hospital are much more likely to die than children covered by either private or government insurance plans, according to one of the first studies to assess the impact of insurance coverage on hospitalized children.

Researchers at Johns Hopkins Children's Center analyzed data from more than 23 million children's hospitalizations in 37 states from 1988 to 2005. Compared with insured children, uninsured children faced a 60 percent increased risk of dying, the researchers found.

The authors estimated that at least 1,000 hospitalized children died each year simply because they lacked insurance, accounting for 16,787 of some 38,649 children's deaths nationwide during the period analyzed.

''If you take two kids from the same demographic background—the same race, same gender, same neighborhood income level and same number of co-morbidities or other illnesses—the kid without insurance is 60 percent more likely to die in the hospital than the kid in the bed right next to him or her who is insured,'' said David C. Chang, co-director of the pediatric surgery outcomes group at the children's center and an author of the study, which appeared today in The Journal of Public Health.

Although the research was not set up to identify why uninsured children were more likely to die, it found that they were more likely to gain access to care through the emergency room, suggesting they might have more advanced disease by the time they were hospitalized.

In addition, uninsured children were in the hospital, on average, for less than a day when they died, compared with a full day for insured children. Children without insurance incurred lower hospital charges—$8,058 on average, compared with $20,951 for insured children.

In children who survived hospitalization, the length of stay and charges did not vary with insurance status.

The paper's lead author, Dr. Fizan Abdullah, assistant professor of surgery at Johns Hopkins, dismissed the possibility that providers gave less care or denied procedures to the uninsured. ''The children who were uninsured literally died before the hospital could provide them more care,'' Dr. Abdullah said.

Furthermore, Dr. Abdullah said, indications are that the uninsured children ''are further along in their course of illness.''

The results are all the more striking because children's deaths are so rare that they could be examined only by a very large study, said Dr. Peter J. Pronovost, a professor of surgery at Johns Hopkins and an author of the new study.

''The striking thing is that children don't often die,'' Dr. Pronovost said. ''This study provides further evidence that the need to insure everyone is a moral issue, not just an economic one.''

An estimated seven million children are uninsured in the United States, despite recent efforts to extend coverage under the federal Children's Health Insurance Program.

Advocates for children said they were saddened by the findings but not surprised.

''We know from studies of adults that lack of insurance contributes to worse outcomes, and this study provides evidence that there are similar consequences for children,'' said Alison Buist, director of child health at the Children's Defense Fund, a nonprofit advocacy organization. ''If you wait until a child gets care at a hospital, you have missed an opportunity to get them the types of screening and preventive services that prevent them from getting to that level of severity to begin with.''

The most common reasons for children being hospitalized were complications from birth, pneumonia and asthma. The study found that the reasons did not differ depending on insurance status.

Earlier studies have found that uninsured children are more likely than insured children to have unmet medical needs, like untreated asthma or diabetes, and are more likely to go for two years without seeing a doctor.

Following a recent expansion, 14 million children will be covered by the CHIP program by 2013, according to the Congressional Budget Office. Advocates for children are concerned that efforts to overhaul the health care system may actually reverse the progress made toward covering more children if CHIP is phased out and many families remain unable to afford health insurance.

''You can't just dump 14 million vulnerable children into a new system without evidence that the benefits and the affordability provisions are better than they are now,'' Dr. Buist said. ''That's not health reform.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, as in executive session, I ask unanimous consent that at 4:30 p.m. on Monday, November 9, the Senate proceed to executive session to consider Calendar No. 185, the nomination of Andre M. Davis to be a U.S. Circuit Judge for the Fourth Circuit; that there be 60 minutes of debate with respect to the nominations, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that at 5:30 p.m. the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be made and laid on the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Mr. CASEY. For the information of the Senate, if Members wish to speak with respect to this nomination on Friday, they are encouraged to do so.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider en bloc Calendar Nos. 314, 495, 496, 502, 503, 515, 516, 517, 518, 523, 524, 525, 528, and 529; that the nominations be confirmed; that the motions to reconsider be laid on the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and that the Senate resume legislative session.

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

The nominations considered and agreed to are as follows:

DEPARTMENT OF STATE

Arturo A. Valenzuela, of the District of Columbia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Rolena Klahn Adorno, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

Marvin Krislov, of Ohio, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

DEPARTMENT OF JUSTICE

Laurie O. Robinson, of the District of Columbia, to be an Assistant Attorney General.

Benjamin B. Wagner, of California, to be United States Attorney for the Eastern District of California for the term of four years.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Anne S. Ferro, of Maryland, to be Administrator of the Federal Motor Carrier Safety Administration.

DEPARTMENT OF TRANSPORTATION

Cynthia L. Quarterman, of Georgia, to be Administrator of the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Elizabeth M. Robinson, of Virginia, to be Chief Financial Officer, National Aeronautics and Space Administration.

DEPARTMENT OF COMMERCE

Patrick Gallagher, of Maryland, to be Director of the National Institute of Standards and Technology.

MERIT SYSTEMS PROTECTION BOARD

Susan Tsui Grundmann, of Virginia, to be Chairman of the Merit Systems Protection Board.

Susan Tsui Grundmann, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2016.

Anne Marie Wagner, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2014.

DEPARTMENT OF JUSTICE

Carmen Milagros Ortiz, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

Edward J. Tarver, of Georgia, to be United States Attorney for the Southern District of Georgia for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

MORNING BUSINESS

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

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

GLOBAL CHILD SURVIVAL ACT OF 2009

Mr. DURBIN. Mr. President, I rise before you today to speak about a population that is all too often forgotten in the poorest corners of our world; women and children. A woman's pregnancy should be a joyous time in her life. Sadly, in many developing countries countless women suffer from pregnancy-related injuries, infections, diseases, and disabilities often with lifelong consequences. Too often their children die or struggle from a lack of basic childhood medical care.

Over the years I have traveled to some of the poorest corners of the world, from Congo to Haiti. I have seen those who struggle to find food and water, battle AIDS, TB and malaria, and fight every day to eke out a living against great odds.

Yet one of the most fundamental struggles I have witnessed is that of a mother and child surviving pregnancy and childbirth. It is heartbreaking to hear stories of women who have been in labor for days before being able to reach a hospital, of those who die giving birth because of a lack of basic medical facilities, of the thousands of children who could be saved with low cost vitamin A supplements, or of the thousands of children left as orphans.

What could be a more fundamental need in our world than making sure women and children survive childbirth?

Reducing child mortality and improving maternal health make up two of the eight United Nations Millennium Development Goals. While progress has been made in many countries, an effort to reduce under-five mortality by two-thirds and improve maternal mortality to achieve MDG targets has made the least progress than any of the other MDG's.

That is why Senators DODD, CORKER and I introduced the Global Child Survival Act of 2009.

This legislation is about strengthening the U.S. Government's role in saving the lives of children and mothers in poor countries. The act would require the U.S. Government to develop a strategy for supporting the improvement of newborns, children, and mothers.

Across the developing world, mothers are dying giving birth from complications such as hemorrhaging, sepsis, hypertensive disorders, and obstructed labor. Each year, more than half a million women die from causes related to pregnancy and childbirth.

The sad reality is that most of these complications have easy and preventable solutions. In fact, if women had access to basic maternal health services, an estimated 80 percent of maternal deaths could be prevented.

Key interventions, such as adequate nutrition, antenatal care, skilled attendance at birth and access to emergency obstetric care when necessary,

are already improving the health outcomes for mothers and infants around the world.

But we can do more. We must do more.

Accordingly, the Global Child Survival Act would create an interagency task force on child and maternal health. Through building local capacity and self-sufficiency, partnering with nongovernmental organizations and participation by local communities we can better coordinate activities directed at achieving maternal and child health goals.

The act builds on existing interventions that support counseling for new mothers. Research has shown that most of the 4 million newborn babies that die every year could be saved by training parents in simple care practices and by training health workers to help newborns with complications.

Factors such as malnutrition, unsafe drinking water, and inadequate access to vaccines contribute greatly to global child mortality. Three quarters of newborn deaths take place in the first 7 days of life; most of these deaths are also preventable. Effective low-cost tools—such as vaccines and antibiotics—could save the lives of 6 million of these children.

The reproductive risks young girls in developing countries face are linked to lower levels of schooling and to underlying factors of poverty, poor nutrition, and reduced access to health care. That is why the Global Child Survival Act also supports activities to promote scholarships for secondary education. Educating girls and young women is one of the most powerful ways of breaking the poverty trap and creating a supportive environment for maternal and newborn health.

I am pleased that many partners in this fight are showing an interest in moving forward in this fight. In May, President Obama announced a Global Health Initiative proposing $63 billion over 6 years, specifically emphasizing maternal and child health as a piece of the initiative.

President Obama also called attention to maternal and child mortality during his recent travel to Africa. After visiting a USAID funded hospital in Accra, Ghana the President stated, ''Part of the reason this is so important is that throughout Africa, the rate of both infant mortality but also maternal mortality is still far too high.''

I urge my colleagues to join me in supporting the Global Child Survival Act to help show our commitment to improving the lives of women and children around the world. It is an important step, along with such basics as clean water and sanitation, food security, and education, in improving the lives of the world's poor.

UNEMPLOYMENT COMPENSATION EXTENSION ACT

Mr. BAUCUS. Mr. President, the provision of S.A. 2712 to H.R. 3548, The Worker, Homeownership, and Business Act of 2009 as voted on yesterday, November 4, 2009, provide relief for unemployed workers, homeowners and businesses. Senate Finance Committee Chairman BAUCUS has asked the nonpartisan Joint Committee on Taxation to make available to the public a technical explanation of the bill, JCX–44–09. The technical explanation expresses the committee's understanding and legislative intent behind this important legislation. It is available on the Joint Committee's Web site at www.house.gov/jct.

Mr. President, I ask unanimous consent to have the technical explanation printed in the RECORD.

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

TECHNICAL EXPLANATION OF CERTAIN REVENUE PROVISIONS OF THE WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of certain revenue provisions of The Worker, Homeownership, and Business Assistance Act of 2009.

A. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT (SECS. 11 AND 12 OF THE BILL AND SEC. 36 OF THE CODE)

PRESENT LAW

In general

An individual who is a first-time homebuyer is allowed a refundable tax credit equal to the lesser of $8,000 ($4,000 for a married individual filing separately) or 10 percent of the purchase price of a principal residence. The credit is allowed for qualifying home purchases on or after April 9, 2008, and before December 1, 2009.

The credit phases out for individual taxpayers with modified adjusted gross income between $75,000 and $95,000 ($150,000 and $170,000 for joint filers) for the year of purchase.

An individual is considered a first-time homebuyer if the individual had no ownership interest in a principal residence in the United States during the 3-year period prior to the purchase of the home.

An election is provided to treat a residence purchased after December 31, 2008, and before December 1, 2009, as purchased on December 31, 2008, so that the credit may be claimed on the 2008 income tax return.

No District of Columbia first-time homebuyer credit is allowed to any taxpayer with respect to the purchase of a residence after December 31, 2008, and before December 1, 2009, if the national first-time homebuyer credit is allowable to such taxpayer (or the taxpayer's spouse) with respect to such purchase.

Recapture

For homes purchased on or before December 31, 2008, the credit is recaptured ratably over fifteen years with no interest charge beginning in the second taxable year after the taxable year in which the home is purchased. For example, if an individual purchases a home in 2008, recapture commences with the 2010 tax return. If the individual sells the home (or the home ceases to be used as the principal residence of the individual or the individual's spouse) prior to complete recapture of the credit, the amount of any credit not previously recaptured is due on the tax return for the year in which the home is sold (or ceases to be used as the principal residence). However, in the case of a sale to an unrelated person, the amount recaptured may not exceed the amount of gain from the sale of the residence. For this purpose, gain is determined by reducing the basis of the residence by the amount of the credit to the extent not previously recaptured. No amount is recaptured after the death of an individual. In the case of an involuntary conversion of the home, recapture is not accelerated if a new principal residence is acquired within a two-year period. In the case of a transfer of the residence to a spouse or to a former spouse incident to divorce, the transferee spouse (and not the transferor spouse) will be responsible for any future recapture. Recapture does not apply to a home purchased after December 31, 2008 that is treated (at the election of the taxpayer) as purchased on December 31, 2008.

For homes purchased after December 31, 2008, and before December 1, 2009, the credit is recaptured only if the taxpayer disposes of the home (or the home otherwise ceases to be the principal residence of the taxpayer) within 36 months from the date of purchase.

EXPLANATION OF PROVISION

Extension of application period

In general, the credit is extended to apply to a principal residence purchased by the taxpayer before May 1, 2010. The credit applies to the purchase of a principal residence before July 1, 2010 by any taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010.

The waiver of recapture, except in the case of disposition of the home (or the home otherwise ceases to be the principal residence of the taxpayer) within 36 months from the date of purchase, is extended to any purchase of a principal residence after December 31, 2008.

The election to treat a purchase as occurring in a prior year is modified. In the case of a purchase of a principal residence after December 31, 2008, a taxpayer may elect to treat the purchase as made on December 31 of the calendar year preceding the purchase for purposes of claiming the credit on the prior year's tax return.

No District of Columbia first-time homebuyer credit is allowed to any taxpayer with respect to the purchase of a residence after December 31, 2008, if the national first-time homebuyer credit is allowable to such taxpayer (or the taxpayer's spouse) with respect to such purchase.

Long-time residents of the same principal residence

An individual (and, if married, the individual's spouse) who has maintained the same principal residence for any five-consecutive year period during the eight-year period ending on the date of the purchase of a subsequent principal residence is treated as a first-time homebuyer. The maximum allowable credit for such taxpayers is $6,500 ($3,250 for a married individual filing separately).

Limitations

The bill raises the income limitations to qualify for the credit. The credit phases out for individual taxpayers with modified adjusted gross income between $125,000 and $145,000 ($225,000 and $245,000 for joint filers) for the year of purchase.

No credit is allowed for the purchase of any residence if the purchase price exceeds $800,000.

No credit is allowed unless the taxpayer is 18 years of age as of the date of purchase. A taxpayer who is married is treated as meeting the age requirement if the taxpayer or the taxpayer's spouse meets the age requirement.

The definition of purchase excludes property acquired from a person related to the

person acquiring such property or the spouse of the person acquiring the property, if married.

No credit is allowed to any taxpayer if the taxpayer is a dependent of another taxpayer.

No credit is allowed unless the taxpayer attaches to the relevant tax return a properly executed copy of the settlement statement used to complete the purchase.

Waiver of recapture for individuals on qualified official extended duty

In the case of a disposition of principal residence by an individual (or a cessation of use of the residence that otherwise would cause recapture) after December 31, 2008, in connection with government orders received by the individual (or the individual's spouse) for qualified official extended duty service, no recapture applies by reason of the disposition of the residence, and any 15-year recapture with respect to a home acquired before January 1, 2009, ceases to apply in the taxable year the disposition occurs.

Qualified official extended duty service means service on official extended duty as a member of the uniformed services, a member of the Foreign Service of the United States, or an employee of the intelligence community.

Qualified official extended duty is any period of extended duty while serving at a place of duty at least 50 miles away from the taxpayer's principal residence or under orders compelling residence in government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service.

The term ''member of the Foreign Service of the United States'' includes: (1) chiefs of mission; (2) ambassadors at large; (3) members of the Senior Foreign Service; (4) Foreign Service officers; and (5) Foreign Service personnel.

The term ''employee of the intelligence community'' means an employee of the Office of the Director of National Intelligence, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Reconnaissance Office. The term also includes employment with: (1) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs; (2) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard; (3) the Bureau of Intelligence and Research of the Department of State; and (4) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.

Extension of the first-time homebuyer credit for individuals on qualified official extended duty outside of the United States

In the case of any individual (and, if married, the individual's spouse) who serves on qualified official extended duty service outside of the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, the expiration date of the first-time homebuyer credit is extended for one year, through May 1, 2011 (July 1, 2011, in the case of an individual who enters into a written binding contract before May 1, 2011, to close on the purchase of a principal residence before July 1, 2011).

Mathematical error authority

The bill makes a number of changes to expand the definition of mathematical or clerical error for purposes of administration of the credit by the Internal Revenue Service (''IRS''). The IRS may assess additional tax without issuance of a notice of deficiency as otherwise required in the case of: an omission of any increase in tax required by the recapture provisions of the credit; information from the person issuing the taxpayer identification number of the taxpayer that indicates that the taxpayer does not meet the age requirement of the credit; information provided to the Secretary by the taxpayer on an income tax return for at least one of the two preceding taxable years that is inconsistent with eligibility for such credit; or, failure to attach to the return a properly executed copy of the settlement statement used to complete the purchase.

EFFECTIVE DATE

The extension of the first-time homebuyer credit and coordination with the first-time homebuyer credit for the District of Columbia apply to residences purchased after November 30, 2009.

Provisions relating to long-time residents of the same principal residence, and income, purchase price, age, related party, dependent, and documentation limitations apply for purchases after the date of enactment.

The waiver of recapture provision applies to dispositions and cessations after December 31, 2008.

The expansion of mathematical and clerical error authority applies to returns for taxable years ending on or after April 9, 2008.

B. FIVE-YEAR CARRYBACK OF OPERATING LOSSES (SEC. 13 OF THE BILL AND SEC. 172 OF THE CODE)

PRESENT LAW

In general

Under present law, a net operating loss (''NOL'') generally means the amount by which a taxpayer's business deductions exceed its gross income. In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years. NOLs offset taxable income in the order of the taxable years to which the NOL may be carried.

For purposes of computing the alternative minimum tax (''AMT''), a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income (''AMTI'') by more than 90 percent of the AMTI.

In the case of a life insurance company, present law allows a deduction for the operations loss carryovers and carrybacks to the taxable year, in lieu of the deduction for net operation losses allowed to other corporations. A life insurance company is permitted to treat a loss from operations (as defined under section 810(c)) for any taxable year as an operations loss carryback to each of the three taxable years preceding the loss year and an operations loss carryover to each of the 15 taxable years following the loss year.

Temporary rule for small business

Present law provides an eligible small business with an election to increase the present-law carryback period for an ''applicable 2008 NOL'' from two years to any whole number of years elected by the taxpayer that is more than two and less than six. An eligible small business is a taxpayer meeting a $15,000,000 gross receipts test. An applicable 2008 NOL is the taxpayer's NOL for any taxable year ending in 2008, or if elected by the taxpayer, the NOL for any taxable year beginning in 2008. However, any election under this provision may be made only with respect to one taxable year.

EXPLANATION OF PROVISION

The provision provides an election to increase the present-law carryback period for an applicable NOL from two years to any whole number of years elected by the taxpayer which is more than two and less than six. An applicable NOL is the taxpayer's NOL for a taxable year beginning or ending in either 2008 or 2009. Generally, a taxpayer may elect an extended carryback period for only one taxable year.

The amount of an NOL that may be carried back to the fifth taxable year preceding the loss year is limited to 50 percent of taxable income for such taxable year (computed without regard to the NOL for the loss year or any taxable year thereafter). The limitation does not apply to the applicable 2008 NOL of an eligible small business with respect to which an election is made (either before or after the date of enactment of the bill) under the provision as presently in effect. The amount of the NOL otherwise carried to taxable years subsequent to such fifth taxable year is to be adjusted to take into account that the NOL could offset only 50 percent of the taxable income in such year. Thus, in determining the excess of the applicable NOL over the sum of the taxpayer's taxable income for each of the prior taxable years to which the loss may be carried, only 50 percent of the taxable income for the taxable year for which the limitation applies is to be taken into account.

The provision also suspends the 90-percent limitation on the use of any alternative tax NOL deduction attributable to carrybacks of the applicable NOL for which an extended carryback period is elected.

For life insurance companies, the provision provides an election to increase the present-law carryback period for an applicable loss from operations from three years to four or five years. An applicable loss from operations is the taxpayer's loss from operations for any taxable year beginning or ending in either 2008 or 2009. A 50-percent of taxable income limitation applies to the fifth taxable year preceding the loss year.

A taxpayer must make the election by the extended due date for filing the return for the taxpayer's last taxable year beginning in 2009, and in such manner as may be prescribed by the Secretary. An election, once made, is irrevocable.

An eligible small business that timely made (or timely makes) an election under the provision as in effect on the day before the enactment of the bill to carryback its applicable 2008 NOL may also elect to carryback a 2009 NOL under the amended provision. It is intended that an eligible small business may continue to make the present-law election under procedures prescribed in Rev. Proc. 2009–26 following the enactment of the bill.

The provision generally does not apply to: (1) any taxpayer if (a) the Federal government acquired or acquires at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or (b) the Federal government acquired or acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act; (2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and (3) any taxpayer that in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 without regard to subsection (b) thereof) as a taxpayer to which the provision does not otherwise apply. An equity interest (or right to acquire an equity interest) is disregarded for this purpose if acquired by the Federal

government after the date of enactment from a financial institution pursuant to a program established by the Secretary for the stated purpose of increasing the availability of credit to small businesses using funding made available under the Emergency Economic Stabilization Act of 2008.

EFFECTIVE DATE

The provision is generally effective for net operating losses arising in taxable years ending after December 31, 2007. The modification to the alternative tax NOL deduction applies to taxable years ending after December 31, 2002. The modification with respect to operating loss deductions of life insurance companies applies to losses from operations arising in taxable years ending after December 31, 2007.

Under transition rules, a taxpayer may revoke any election to waive the carryback period under either section 172(b)(3) or section 810(b)(3) with respect to an applicable NOL or an applicable loss from operations for a taxable year ending before the date of enactment by the extended due date for filing the tax return for the taxpayer's last taxable year beginning in 2009. Similarly, any application for a tentative carryback adjustment under section 6411(a) with respect to such loss is treated as timely filed if filed by the extended due date for filing the tax return for the taxpayer's last taxable year beginning in 2009.

C. EXCLUSION FROM GROSS INCOME OF QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE (SEC. 14 OF THE BILL AND SEC. 132 OF THE CODE)

PRESENT LAW

Homeowners Assistance Program payment

The Department of Defense Homeowners Assistance Program (''HAP'') provides payments to certain employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure.

In general, under the HAP, eligible individuals receive either: (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale; or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

The American Recovery and Reinvestment Act of 2009 expands the HAP in various ways. It amends the Demonstration Cities and Metropolitan Development Act of 1966 to allow, under the HAP under such Act, the Secretary of Defense to provide assistance or reimbursement for certain losses in the sale of family dwellings by members of the Armed Forces living on or near a military installation in situations where: (1) there was a base closure or realignment; (2) the property was purchased before July 1, 2006, and sold between that date and September 30, 2012; (3) the property is the owner's primary residence; and (4) the owner has not previously received benefits under the HAP. Further, it authorizes similar HAP assistance or reimbursement with respect to: (1) wounded members and wounded civilian Department of Defense and Coast Guard employees (and their spouses); and (2) members permanently reassigned from an area at or near a military installation to a new duty station more than 50 miles away (with similar purchase and sale date, residence, and no-previous-benefit requirements as above). It allows the Secretary to provide compensation for losses from home sales by such individuals to ensure the realization of at least 90 percent (in some cases, 95 percent) of the pre-mortgage-crisis assessed value of such property.

Tax treatment

Present law generally excludes from gross income amounts received under the HAP (as in effect on November 11, 2003). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

EXPLANATION OF PROVISION

The bill expands the exclusion to HAP payments authorized under the American Recovery and Reinvestment Tax Act of 2009.

EFFECTIVE DATE

The provision is effective for payments made after February 17, 2009 (the date of enactment of the American Recovery and Reinvestment Tax Act of 2009).

D. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST (SEC. 15 OF THE BILL AND SEC. 864 OF THE CODE)

PRESENT LAW

In general

To compute the foreign tax credit limitation, a taxpayer must determine the amount of its taxable income from foreign sources. Thus, the taxpayer must allocate and apportion deductions between items of U.S.-source gross income, on the one hand, and items of foreign-source gross income, on the other.

In the case of interest expense, the rules generally are based on the approach that money is fungible and that interest expense is properly attributable to all business activities and property of a taxpayer, regardless of any specific purpose for incurring an obligation on which interest is paid. For interest allocation purposes, all members of an affiliated group of corporations generally are treated as a single corporation (the so-called ''one-taxpayer rule'') and allocation must be made on the basis of assets rather than gross income. The term ''affiliated group'' in this context generally is defined by reference to the rules for determining whether corporations are eligible to file consolidated returns.

For consolidation purposes, the term ''affiliated group'' means one or more chains of includible corporations connected through stock ownership with a common parent corporation that is an includible corporation, but only if: (1) the common parent owns directly stock possessing at least 80 percent of the total voting power and at least 80 percent of the total value of at least one other includible corporation; and (2) stock meeting the same voting power and value standards with respect to each includible corporation (excluding the common parent) is directly owned by one or more other includible corporations.

Generally, the term ''includible corporation'' means any domestic corporation except certain corporations exempt from tax under section 501 (for example, corporations organized and operated exclusively for charitable or educational purposes), certain life insurance companies, corporations electing application of the possession tax credit, regulated investment companies, real estate investment trusts, and domestic international sales corporations. A foreign corporation generally is not an includible corporation.

Subject to exceptions, the consolidated return and interest allocation definitions of affiliation generally are consistent with each other. For example, both definitions generally exclude all foreign corporations from the affiliated group. Thus, while debt generally is considered fungible among the assets of a group of domestic affiliated corporations, the same rules do not apply as between the domestic and foreign members of a group with the same degree of common control as the domestic affiliated group.

Banks, savings institutions, and other financial affiliates

The affiliated group for interest allocation purposes generally excludes what are referred to in the Treasury regulations as ''financial corporations.'' A financial corporation includes any corporation, otherwise a member of the affiliated group for consolidation purposes, that is a financial institution (described in section 581 or section 591), the business of which is predominantly with persons other than related persons or their customers, and which is required by State or Federal law to be operated separately from any other entity that is not a financial institution. The category of financial corporations also includes, to the extent provided in regulations, bank holding companies (including financial holding companies), subsidiaries of banks and bank holding companies (including financial holding companies), and savings institutions predominantly engaged in the active conduct of a banking, financing, or similar business.

A financial corporation is not treated as a member of the regular affiliated group for purposes of applying the one-taxpayer rule to other non-financial members of that group. Instead, all such financial corporations that would be so affiliated are treated as a separate single corporation for interest allocation purposes.

Worldwide interest allocation

In general

The American Jobs Creation Act of 2004 (''AJCA'') modified the interest expense allocation rules described above (which generally apply for purposes of computing the foreign tax credit limitation) by providing a one-time election (the ''worldwide affiliated group election'') under which the taxable income of the domestic members of an affiliated group from sources outside the United States generally is determined by allocating and apportioning interest expense of the domestic members of a worldwide affiliated group on a worldwide-group basis (i.e., as if all members of the worldwide group were a single corporation). If a group makes this election, the taxable income of the domestic members of a worldwide affiliated group from sources outside the United States is determined by allocating and apportioning the third-party interest expense of those domestic members to foreign-source income in an amount equal to the excess (if any) of (1) the worldwide affiliated group's worldwide third-party interest expense multiplied by the ratio that the foreign assets of the worldwide affiliated group bears to the total assets of the worldwide affiliated group, over (2) the third-party interest expense incurred by foreign members of the group to the extent such interest would be allocated to foreign sources if the principles of worldwide interest allocation were applied separately to the foreign members of the group.

For purposes of the new elective rules based on worldwide fungibility, the worldwide affiliated group means all corporations in an affiliated group as well as all controlled foreign corporations that, in the aggregate, either directly or indirectly, would be members of such an affiliated group if section 1504(b)(3) did not apply (i.e., in which at least 80 percent of the vote and value of the stock of such corporations is owned by one or more other corporations included in the affiliated group). Thus, if an affiliated group

makes this election, the taxable income from sources outside the United States of domestic group members generally is determined by allocating and apportioning interest expense of the domestic members of the worldwide affiliated group as if all of the interest expense and assets of 80-percent or greater owned domestic corporations (i.e., corporations that are part of the affiliated group, as modified to include insurance companies) and certain controlled foreign corporations were attributable to a single corporation.

Financial institution group election

Taxpayers are allowed to apply the bank group rules to exclude certain financial institutions from the affiliated group for interest allocation purposes under the worldwide fungibility approach. The rules also provide a one-time ''financial institution group'' election that expands the bank group. At the election of the common parent of the pre-election worldwide affiliated group, the interest expense allocation rules are applied separately to a subgroup of the worldwide affiliated group that consists of (1) all corporations that are part of the bank group, and (2) all ''financial corporations.'' For this purpose, a corporation is a financial corporation if at least 80 percent of its gross income is financial services income (as described in section 904(d)(2)(C)(i) and the regulations thereunder) that is derived from transactions with unrelated persons. For these purposes, items of income or gain from a transaction or series of transactions are disregarded if a principal purpose for the transaction or transactions is to qualify any corporation as a financial corporation.

In addition, anti-abuse rules are provided under which certain transfers from one member of a financial institution group to a member of the worldwide affiliated group outside of the financial institution group are treated as reducing the amount of indebtedness of the separate financial institution group. Regulatory authority is provided with respect to the election to provide for the direct allocation of interest expense in circumstances in which such allocation is appropriate to carry out the purposes of these rules, to prevent assets or interest expense from being taken into account more than once, or to address changes in members of any group (through acquisitions or otherwise) treated as affiliated under these rules.

Effective date of worldwide interest allocation

The common parent of the domestic affiliated group must make the worldwide affiliated group election. It must be made for the first taxable year beginning after December 31, 2010, in which a worldwide affiliated group exists that includes at least one foreign corporation that meets the requirements for inclusion in a worldwide affiliated group. The common parent of the pre-election worldwide affiliated group must make the election for the first taxable year beginning after December 31, 2010, in which a worldwide affiliated group includes a financial corporation. Once either election is made, it applies to the common parent and all other members of the worldwide affiliated group or to all members of the financial institution group, as applicable, for the taxable year for which the election is made and all subsequent taxable years, unless revoked with the consent of the Secretary of the Treasury.

Phase-in rule

HERA also provided a special phase-in rule in the case of the first taxable year to which the worldwide interest allocation rules apply. For that year, the amount of the taxpayer's taxable income from foreign sources is reduced by 70 percent of the excess of (i) the amount of its taxable income from foreign sources as calculated using the worldwide interest allocation rules over (ii) the amount of its taxable income from foreign sources as calculated using the present-law interest allocation rules. For that year, the amount of the taxpayer's taxable income from domestic sources is increased by a corresponding amount. Any foreign tax credits disallowed by virtue of this reduction in foreign-source taxable income may be carried back or forward under the normal rules for carrybacks and carryforwards of excess foreign tax credits.

EXPLANATION OF PROVISION

The provision delays the effective date of worldwide interest allocation rules for seven years, until taxable years beginning after December 31, 2017. The required dates for making the worldwide affiliated group election and the financial institution group election are changed accordingly.

The provision also eliminates the special phase-in rule that applies in the case of the first taxable year to which the worldwide interest allocation rules apply.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2010.

E. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP OR S CORPORATION RETURNS (SEC. 16 OF THE BILL AND SECS. 6698 AND 6699 OF THE CODE)

PRESENT LAW

Both partnerships and S corporations are generally treated as pass-through entities that do not incur an income tax at the entity level. Income earned by a partnership, whether distributed or not, is taxed to the partners. Distributions from the partnership generally are tax-free. The items of income, gain, loss, deduction or credit of a partnership generally are taken into account by a partner as allocated under the terms of the partnership agreement. If the agreement does not provide for an allocation, or the agreed allocation does not have substantial economic effect, then the items are to be allocated in accordance with the partners' interests in the partnership. To prevent double taxation of these items, a partner's basis in its interest is increased by its share of partnership income (including tax-exempt income), and is decreased by its share of any losses (including nondeductible losses). An S corporation generally is not subject to corporate-level income tax on its items of income and loss. Instead, the S corporation passes through its items of income and loss to its shareholders. The shareholders take into account separately their shares of these items on their individual income tax returns.

Under present law, both partnerships and S corporations are required to file tax returns for each taxable year. The partnership's tax return is required to include the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual. The S corporation's tax return is required to include the following: the names and addresses of all persons owning stock in the corporation at any time during the taxable year; the number of shares of stock owned by each shareholder at all times during the taxable year; the amount of money and other property distributed by the corporation during the taxable year to each shareholder and the date of such distribution; each shareholder's pro rata share of each item of the corporation for the taxable year; and such other information as the Secretary may require.

In addition to applicable criminal penalties, present law imposes assessable civil penalties for both the failure to file a partnership return and the failure to file an S corporation return. Each of these penalties is currently $89 times the number of shareholders or partners for each month (or fraction of a month) that the failure continues, up to a maximum of 12 months for returns required to be filed after December 31, 2008.

EXPLANATION OF PROVISION

Under the provision, the base amount on which a penalty is computed for a failure with respect to filing either a partnership or S corporation return is increased to $195 per partner or shareholder.

EFFECTIVE DATE

The provision applies to returns for taxable years beginning after December 31, 2009.

F. EXPANSION OF ELECTRONIC FILING BY RETURN PREPARERS (SEC. 17 OF THE BILL AND SEC. 6011(E) OF THE CODE)

PRESENT LAW

The IRS Restructuring and Reform Act of 1998 (''RRA 1998'') states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 sets a goal for the IRS to have at least 80 percent of all Federal tax and information returns filed electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law authorizes the IRS to issue regulations specifying which returns must be filed electronically. There are several limitations on this authority. First, it can only apply to persons required to file at least 250 returns during the calendar year. Second, the Secretary is prohibited from requiring that income tax returns of individuals, estates, and trusts be submitted in any format other than paper, although these returns may be filed electronically by choice.

Regulations require corporations and tax-exempt organizations that have assets of $10 million or more and file at least 250 returns during a calendar year, including income tax, information, excise tax, and employment tax returns, to file electronically their Form 1120/1120S income tax returns and Form 990 information returns for tax years ending on or after December 31, 2006. Private foundations and charitable trusts that file at least 250 returns during a calendar year are required to file electronically their Form 990–PF information returns for tax years ending on or after December 31, 2006, regardless of their asset size. Taxpayers can request waivers of the electronic filing requirement if they cannot meet that requirement due to technological constraints, or if compliance with the requirement would result in undue financial burden on the taxpayer.

EXPLANATION OF PROVISION

The provision generally maintains the current rule that regulations may not require any person to file electronically unless the person files at least 250 tax returns during the calendar year. However, the proposal provides an exception to this rule and mandates that the Secretary require electronic filing by specified tax return preparers. ''Specified tax return preparers'' are all return preparers except those who neither prepare nor reasonably expect to prepare ten or more individual income tax returns in a calendar year. The term ''individual income tax return'' is defined to include returns for estates and trusts as well as individuals.

EFFECTIVE DATE

The provision is effective for tax returns filed after December 31, 2010.

G. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES (SEC. 18 OF THE BILL AND SEC. 6655 OF THE CODE)

PRESENT LAW

In general, corporations are required to make quarterly estimated tax payments of

their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. In the case of a corporation with assets of at least $1 billion (determined as of the end of the preceding tax year), payments due in July, August, or September, 2014, are increased to 100.25 percent of the payment otherwise due and the next required payment is reduced accordingly.

EXPLANATION OF PROVISION

The provision increases the required payment of estimated tax otherwise due in July, August, or September, 2014, by 33 percentage points.

EFFECTIVE DATE

The provision is effective on the date of the enactment of this Act.

SETTLEMENT STATEMENTS AND MANUFACTURED HOUSING

Mr. NELSON of Florida. Mr. Chairman, the amendment requires the taxpayer to provide a settlement statement to the IRS as proof that a home was purchased. While I support that requirement, the fact is that there is no settlement statement in the case of a manufactured home that is purchased and will be either sited on land already owned by the home buyer or sited on land to be leased by the home buyer. In those instances, a retail sales contract is used to purchase the home. This contract contains all of the truth in lending disclosures, as well as all the itemized disbursements relating to the transaction. Mr. Chairman, is it the view of the Senate that the IRS should accept retail sales contracts as proof of purchase in the event that a settlement statement is not available to the taxpayer?

Mr. BAUCUS. The Senator from Florida is correct. The purpose of the legislation is to eliminate fraud by requiring documentation of the proof of purchase. It is the Senate's intent that the IRS should accept retail sales contracts from taxpayers as proof of purchase of a manufactured home in the event that a settlement statement is not available.

Mrs. LINCOLN. I thank the chairman very much for that important clarification which will provide more certainty for our constituents who wish to purchase a manufactured home.

A NEPHEW'S MEMORIES OF ''TEDDY''

Mr. KERRY. Mr. President, during his long illness, the Senate missed Ted Kennedy and Ted Kennedy missed the Senate. But Ted was especially missed by a young Senate page with whom he had a special connection—his nephew, Jack Schlossberg, Caroline Kennedy's son.

Jack worked as a page over the summer months, and I got to know him. When he wasn't busy with his page duties in the cloakroom and on the Senate floor, we talked about the lessons he had learned from his uncle.

Ted was thrilled that Jack was walking the same corridors where his Uncle Bobby and his grandfather, John F. Kennedy, had once served. When young Jack returned to school this fall, he had a chance to reflect on all that had happened during his summer in Washington, but mostly he thought about his Uncle Teddy. He wrote about it in an essay he titled ''EMK.''

Jack shared his essay with me, and I would like to share it with the Congress, because it reflects not only what a tower of strength Teddy was to his family, but also the extraordinary qualities of Ted's loving nephew, Jack Schlossberg.

Mr. President, I ask unanimous consent that Jack's essay be printed in the RECORD, and I recommend that it be read by all who knew Ted, all who called him their friend, all who benefited from his extraordinary career in the U.S. Senate:

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

EMK

(By Jack Schlossberg)

When I was little, I could only remember general things about him, like the way his voice sounded, or the feeling I got when we went sailing on his boat. As I grew up I started to understand what Uncle Teddy was saying to me and what he meant. As Teddy became sick, I understood him differently. He was still at times the same person I knew and loved, but his imperfections startled me. During his last few months I began to study every word he said. I idolized him in a way I never had before. No longer was my Uncle Teddy a summer memory or someone I heard about from my mother; he meant something to me. As I watched him go through Boston for the last time in August, I realized that I was not the only person who grew up with him this way, and that multiple generations had. Hundreds of thousands of people knew Teddy as the loving man who had always been there, and who never disappointed them.

It was my first year playing basketball and my team had made it to the championships. I was ten years old and I had never been more excited in my life. It was a tie game well into the fourth quarter when Teddy showed up. He came barreling into the gloomy PS 188 gym and sat down with my mother and father on the sidelines. He did not cheer too loud or even make himself heard, he just sat there and watched me. After my team's victory, he got up and gave me a great big hug. Soon after, he left and went home, as did I. I did not think twice about him coming to my game. I had not told him about it—he probably asked my mother what time and where it was, and moved everything that he was doing that day around my 11:00 am basketball game. That night I got a call from him: ''The game of all games,'' he shouted into the phone. ''And you scored the winning shot. I can't believe it. I just can't believe it,'' he said. Of course, I had not actually scored the winning shot, but all of sudden I believed I had. Teddy was always there to make your story a little more dramatic and entirely more fun. After he told a story about something you both had done, you started telling the story exactly as he had. At the time, I never understood how much effort he put into our relationship. Not only was he the senior Senator from Massachusetts, but also he was also quite busy, unlike many Senators. It was not as if he called me every day, every week, or even every month, but without fail, when you needed Teddy, he was there.

A year ago Teddy was diagnosed with brain cancer. A person who never made me sad, and never seemed weak, was said to have months to live. At first I was more baffled than I was upset. We were not talking about your average person, this was Teddy. He was not someone who came and went, he simply was always there. This was the first time I saw him affected by anything, and I was so confused by his vulnerability. My view of Teddy changed completely without any interaction with him. I suddenly became endlessly interested in his life. I read about him, I followed his policy and studied his speeches. Soon after his diagnosis my family and I went to visit Teddy in Florida. For the first time, I was aware of who Teddy was when he was not with me. In Florida, I asked him about his life and his politics, something I had never done before. He explained how he was seven years old (in the eighth grade because he was sent to school with his older brother) and his classmates stole his turtle and buried it: ''I cried for hours and ran outside to dig him up,'' he said with a grin. ''They were so mean over there at Riverdale.'' Although he could not express himself the way he wanted to at all times, he still stunned me with stories about civil rights and Lyndon Johnson. He also triggered the same emotions he always had. As he and his wife, Vicki, sat down to watch ''24'' one night, I saw Teddy as himself. I sat next to him as he commented on the show: ''She's always cross,'' he said about one character. He made joke after joke about every possible thing he could and had everyone in the room laughing. This was Teddy's way. It was not as if every word he said was brilliant, but his way as a person was truly unique. He could make a very depressing evening hilarious just by cracking a few jokes.

My final memories of Teddy are not really of him, but of what I learned about him. His death was both upsetting and uplifting. At first I only thought of how I would miss him and how unfair it was that he was gone. But, as I went through Boston with him for the last time, I realized that many others loved him too. The drive started slowly as we went through Hyannis and waved to the people we passed on the street. The crowds got bigger as we approached Boston, and as we passed Teddy's famed ''Rose Fitzgerald Kennedy Greenway'' the crowd was enormous. The signs people held that said ''We love you Teddy'' struck deep in my heart. We drove through all of Boston as people lined the streets everywhere. There was no animosity, no hatred, just appreciation and love for Teddy. This made me realize that I was not the only person who loved him, and that the same effort he had made for me, he had made for everyone. He is the only person I know who was capable of making the type of effort he made. Whether it was my basketball game or grandparents day, Teddy showed up and made you laugh.

The drive continued as we pulled into the JFK Library and saw news cameras, photographers, and another gigantic crowd. It became clear to me then that in both political and personal life, he had something only few have: people trusted him. Everyone who came out to see Teddy trusted that he was going to take care of them, because he always had. I never knew any of this to be true until that day. Teddy was my uncle, so naturally I figured only those who really knew him would feel like I did. But Teddy's charm was universal, although he brought it up a notch in Massachusetts. The final way in which I remember Teddy, is as someone who always was truly who they appear to be. It would have been possible for his trust to apply only to his family and friends, and for it to have been somewhat artificial, the way most people behave. However, Teddy acted

toward everyone the way he did with me, and this is the highest praise any public figure can attain.

Teddy's relationship with me during his life was spectacular. Not once did he disappoint me, and he provided continuous support and much-needed laughs. Teddy's legacy lies in many places. It lies in his legislative and political accomplishments. It lies in changes in the lives of his friends and constituents. It lies in his family bonds, and his love for the sea. However, it also lies in the way he left us. Teddy's illness at first seemed unfair and depressing. This is not the case at all. Teddy was able to teach everyone who watched him how to fight and how to succeed. Many people do not realize that he outlived everyone's initial predictions, and lived seven times as long as anyone thought possible. This was not because his doctors were wrong about the severity of his cancer, but because this prediction did not consider that they were dealing with Teddy. Not once did he stop fighting. In fact, he took the most aggressive and strenuous approach to fighting his cancer, and always remained hopeful. Teddy's death taught me that no cause is lost, and that every day is worth living.

CLEAN ENERGY JOBS AND AMERICAN POWER ACT

Mr. CARDIN. Mr. President, I was proud to cast my vote today in the Environment and Public Works Committee for S. 1733, the Clean Energy Jobs and American Power Act. At this critical juncture in our Nation's history, we face an economic crisis, an energy security crisis, and a global climate crisis. The good news is that the solutions to these problems are intertwined with one another. This bill will help us meet these challenges and emerge stronger than we are today. We have an urgent responsibility to move forward and I want to thank the chairman of our committee, Senator BARBARA BOXER, for her leadership and courage in taking action on this bill today.

If we do not act on this bill which invests in clean, domestic energy, we will be stuck with an energy policy that is undermining our national security and our economy.

If we do not act on this bill which invests in the industries of tomorrow, we will continue to lose clean energy jobs, jobs that stem from American inventions and ideas, to countries overseas.

If we do not act on this bill which provides significant investment in clean fuels and public transit, we will lose an opportunity to change the way we move people and goods around this country. Right now, the transportation sector represents 30 percent of our greenhouse gas emissions and 70 percent of our oil use. If we could double the number of transit riders in the United States, we would reduce our dependence on foreign oil by more than 40 percent, nearly the amount of we import from Saudi Arabia each year.

If we do not act on this bill, we face irreversible, catastrophic climate change. Our children and grandchildren—my two grandchildren—face a world where there is not enough clean water, food, or fuel, a world that is less diverse, less beautiful, less secure.

I am glad that the majority members of the Environment and Public Works Committee convened today in order to act. And we needed to act on this bill today because this is a global problem and we want all countries to act. In just a few weeks, the international community will meet in Copenhagen to work on an international agreement to do just that.

I am hopeful that Copenhagen will produce an agreement on the architecture of a final climate regime in which countries make a commitment to reduce greenhouse gas emissions. I hope we have an agreement that spells out the mechanism for reaching and enforcing those targets as well as outlining the financing for the developing world.

In my role as chairman of the Commission for Security and Cooperation in Europe and as a member of the Foreign Relations Committee, I speak often to our colleagues in Europe and around the world. And what other countries want to know before they take additional steps—or take first steps—on climate change is: Where is the United States? They are impressed with the action the Obama administration has taken. They are happy to see that the House has acted.

But for the countries of the world to commit to reduce greenhouse gasses in Copenhagen in just a few weeks, they want to see that both Houses of Congress are serious. They want to know that the Senate is making progress toward producing comprehensive climate legislation. The vote today in the Environment and Public Works Committee demonstrates that progress.

But this bill is good for this country and good for Maryland even if we don't get an international agreement. Marylanders understand the opportunities this bill promises. With this bill, we can invest in clean energy jobs: like those at Algenol in Baltimore where they are national leaders in making fuel from algae; like those at Volvo-Mack Truck in Hagerstown where they are making hybrid trucks; like those at Chesapeake Geosystems, a Maryland company that is an east coast leader in geothermal heating; and like those at DAP that makes spackling that is used in weatherizing homes and businesses.

With this bill, we can invest in the transportation improvements Marylanders so desperately need. Transit ridership in Maryland increased by 15 percent in 2008. But recent train and bus accidents in the DC Metro area demonstrate that we need new investment in transit. Our transit systems will not be a safe and reliable solution to our pollution and energy security problems without it.

Marylanders also know the costs of inaction. The people of Smith Island are watching their island disappear under rising sea levels. The crabs, fish, and other aquatic life Maryland's watermen rely on are disappearing along with their way of life. And it is only going to get worse. Maryland's sea levels are projected to rise 3.5 feet. That means thousands of Marylanders are going to lose their homes and farms. This bill provides critical assistance to States, especially coastal States such as Maryland, to help address these challenges and protect our treasured resources such as the Chesapeake Bay.

The vote that we took today in the Environment and Public Works Committee is just the beginning of putting America back in control of its energy future. And we must remember that even after Copenhagen, any deals we reach, any papers we sign, are still but the foundation. The work must continue with earnest followthrough, dedication to truly changing the way we work and live and move around this Earth. That is work for each of us, and we took one important step forward today.

CLEAN ENERGY PARTNERSHIPS ACT

Ms. STABENOW. Mr. President, yesterday I introduced S. 2729, the Clean Energy Partnerships Act. I am proud to have as cosponsors for this bill Senator MAX BAUCUS, Senator AMY KLOBUCHAR, Senator SHERROD BROWN, Senator TOM HARKIN, Senator MARK BEGICH, and Senator JEANNE SHAHEEN, who has been working with me on the carbon conservation program after she introduced S. 1576, the Forest Carbon Incentives Program Act.

As we work toward creating a clean energy economy in America, we need a strategy that protects our environment while protecting and creating jobs and revitalizing our economy.

The bill I introduced yesterday is an important part of that strategy. By creating partnerships among manufacturing, utilities, agriculture, and forestry, we can reduce costs now to help transition to a clean energy economy tomorrow.

As we work to develop new technologies to reduce emissions in the future, we also need to find cost-effective ways to limit emissions in the short-term that do not cost us jobs. This bill is about creating a lower cost strategy to help us reach our emission reduction goals while protecting and strengthening our economy.

We can counteract, or offset, our current carbon emissions by investing in practices like sustainable agriculture and forestry projects that capture and store carbon. A ton of carbon is a ton of carbon. That is what this offset bill is all about.

For example, we can change farming practices through more efficient application of fertilizer, the use of cover crops, or by utilizing tillage practices, called ''no till farming.'' No-till farming reduces carbon emissions by leaving old plant matter buried underground. In contrast, conventional tilling moves old plant matter from last

year's crop from under the soil to the top of the soil, where it decomposes and releases carbon into the atmosphere.

Improved forestry practices are another example of effective and scientifically-proven methods to help reduce carbon emissions. These practices must be a central component of any clean energy legislation. It is estimated that forests store up to 80 percent of aboveground carbon and nearly 70 percent of the carbon stored in the soil. Reducing deforestation, restoring forests, and better land management can all help reduce atmospheric carbon levels, not just in our country but around the world.

This bill also creates incentives to develop new technologies for reducing other greenhouse gas emissions. For example, methane is more than 20 times more potent than carbon dioxide and can be produced from landfills, coal mines, farms, natural gas systems and oil pipelines.

Equipment that can reduce or eliminate methane emissions can have a drastic impact on our environment. We can even use technologies that not only capture the methane but use it to generate cleaner electricity. That equipment can be designed and built right here in America, building on our innovative and manufacturing expertise to create good-paying jobs.

Not only will an offsets program help store carbon, it will also result in cleaner water, more wildlife habitat, and reduced costs for business and agriculture. That is why this legislation has the broad support of organizations and leaders in agriculture, forestry, conservation, utilities and manufacturing, including National Milk Producers Federation; National Farmers Union; National Corn Growers Association; National Cattlemen's Beef Association; American Farmland Trust; National Alfalfa & Forage Association; Dow Chemical Company; Duke Energy; American Electric Power; PG&E Corporation; Dominion; John Deere; Business Council for Sustainable Development; Coalition for Emission Reduction Projects; Generators for Clean Air; National Association of Forest Owners; American Forest Foundation; Binational Softwood Lumber Council; Conservation Forestry; First Environment, Inc.; Forest Guild; Hardwood Federation; Lyme Timber Company; Maine Forest Service; National Alliance of Forest Owners; National Association of State Foresters; National Association of University Forest Resource Programs; National Hardwood Lumber Association; Society of American Foresters; Weyerhaeuser; The Nature Conservancy; Association of Fish and Wildlife Agencies; and Trust for Public Land.

The legislation I introduced yesterday creates partnerships between our agricultural and manufacturing industries, protecting jobs and revitalizing our economy. It is estimated that strong agriculture and forestry offsets could be worth up to $24 billion annually to our economy. If the right clean energy policies are put in place, we have the opportunity to make this work for manufacturing and agriculture and create jobs.

Manufacturing in America created the middle class and is the backbone of our economy. We cannot have an economy if we aren't making things in this country—so any energy bill we pass must protect our industries, protect jobs, and protect our American middle class.

By creating partnerships between manufacturers and agriculture, we can link up the people who ''bring home the bacon'' with the people who actually make the bacon.

By allowing our manufacturing industries to offset their carbon emissions with savings made by sustainable agriculture and forestry practices, we can create a real win-win situation for America's economy.

In my home State of Michigan, we know how to make things and grow things. We know that to reach the clean energy future, we must link our manufacturing expertise with our agricultural expertise. Supported by some of the finest research universities in the world, we are already making key investments in clean energy technology that will reinvigorate our economy, create jobs, and protect our environment for the next generation.

That is what this bill is all about. We still have a long way to go in creating a clean energy bill that makes sense for our manufacturing and agricultural industries. But this bill is an important step toward reaching a balanced approach to energy legislation that respects our environment while also respecting the men and women who build things and grow things in this country.

ADDITIONAL STATEMENTS

TRIBUTE TO THE REVEREND JOHN (JACK) SHARP

• Mr. CARDIN. Mr. President, I rise today to pay special tribute to an outstanding community leader, the Reverend John (Jack) Sharp of Baltimore, MD. Reverend Sharp served as pastor of the Govans Presbyterian Church for 27 years. He has distinguished himself by reaching far beyond his parish to the entire Baltimore community as a visionary and activist determined to move people and social programs from inaction to accomplishment.

Reverend Sharp's mission had always been to aid the poor and the most vulnerable citizens. His boldness of purpose and tenacity, coupled with a winning and commanding personality, enabled him to unite diverse people to work for a common good. Few community activists can match his accomplishments. During his career, he encouraged neighborhoods to accept and embrace housing for the mentally ill and the homeless. In 1991, he founded the Govans Ecumenical Development Corporation, GEDCO, and he has become one of Baltimore's most dynamic and expansive nonprofit developers of senior housing and supportive services for those with special needs.

GEDCO projects and facilities are numerous, providing housing and services for the mentally ill and the homeless—including men and women with HIV/AIDS—a large community pantry, financial assistance, and job development and mentoring. Jack Sharp is most proud of the development of his grand vision, Stadium Place, a state-of-the-art senior residential campus on the grounds of the old Memorial Stadium. The campus is home to four independent living buildings for retirees, an intergenerational and interfaith community ''Y'' and playground, and shovel-ready plans for an innovative Green House long-term care residential facility.

Reverend Sharp accomplished all of this while serving as a pastor; president of the Board of Community Housing Associates of the Baltimore Mental Health Systems, Inc; president of the Glen Meadows Retirement community; and treasurer of the Baltimore Interfaith Hospitality Network. In 2008, he was honored with the Governor's Leadership in Aging Award and the National Football League—Ravens—Community Quarterback Award for Community Service.

I ask my colleagues to join me in recognizing and applauding Jack Sharp for all that he has accomplished to improve the lives of citizens in Baltimore. He made their challenges his challenge and he has made Baltimore City a better place in which to live.•

MESSAGES FROM THE HOUSE

At 11:21 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3639. An act to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes.

At 2:49 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3548) to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

ENROLLED BILL SIGNED

At 3:25 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3548. An act to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

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–3581. A communication from the Department of State, transmitting, pursuant to law, a report relative to the transfer of detainees (OSS Control No. 2009–1854); to the Committee on Armed Services.

EC–3582. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report entitled ''Notification to Congress on Transfer Authorities Used in Fiscal Year 2009''; to the Committee on Armed Services.

EC–3583. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the Uniform Resource Locator (URL) for a report relative to the FY2009 Agency Financial Report for the Department of Defense; to the Committee on Armed Services.

EC–3584. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Senior DoD Officials Seeking Employment with Defense Contractors'' ((RIN0750–AG07) (DFARS Case 2008–D007)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Armed Services.

EC–3585. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Pilot Program for Transition to Follow—on Contracting After Use of Other Transaction Authority'' ((RIN0750–AG17) (DFARS Case 2008–D030)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Armed Services.

EC–3586. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Dominican Republic; to the Committee on Banking, Housing, and Urban Affairs.

EC–3587. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Ireland; to the Committee on Banking, Housing, and Urban Affairs.

EC–3588. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8101)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3589. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1070)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3590. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1067)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3591. A communication from the Senior Advisor, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Economic Sanctions Enforcement Guidelines'' (31 CFR Part 501) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3592. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to defense articles and defense services that were licensed for export under Section 38 of the Arms Export Control Act during fiscal year 2008; to the Committee on Foreign Relations.

EC–3593. A communication from the Director of Congressional Affairs, Federal and State Materials and Environmental Management, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision 7'' (RIN3150–AI70) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Environment and Public Works.

EC–3594. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Institutional Eligibility Under the Higher Education Act of 1965, as Amended, and the Secretary's Recognition of Accrediting Agencies'' (RIN1840–AD00) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3595. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Investigational New Drug Applications; Technical Amendment'' (Docket No. FDA–2009–N–0464) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3596. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of the Cardiac Allograft Gene Expression Profiling Test Systems'' (Docket No. FDA–2009–N–0472) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3597. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, a report entitled ''Job Simulations: Trying Out for a Federal Job''; to the Committee on Homeland Security and Governmental Affairs.

EC–3598. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian Islands'' (RIN0648–XS57) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3599. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian Islands'' (RIN0648–XS59) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3600. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Western Aleutian Islands'' (RIN0648–XS58) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3601. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Secretarial Final Interim Action; Rule Extension'' (RIN0648–AW87) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3602. A communication from the Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Improving Public Safety Communications in the 800 MHz Band'' ((FCC 07–92)(WT Docket No. 02–55)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3603. A communication from the Acting Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended'' ((WC Docket No. 07–267)(FCC09–56)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3604. A communication from the Program Analyst, Office of Managing Director—Financial Operations, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Notice of Proposed Rulemaking and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2009'' ((FCC 09–38; 09–65)(MD Docket Nos. 09–65 and 08–65)) received in the Office of the President of the Senate on November 4, 2009; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, Fiscal Year 2010'' (Rept. No. 111–97).

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 1490. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Ketanji Brown Jackson, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2013.

Kenyen Ray Brown, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Stephanie M. Rose, of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years.

Nicholas A. Klinefeldt, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. LANDRIEU (for herself and Mr. NELSON of Florida):

S. 2731. A bill to improve disaster assistance provided by the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. MENENDEZ:

S. 2732. A bill to require the Administrator of the Federal Aviation Administration to promulgate regulations to prohibit the use of certain portable electronic devices in the cockpit of commercial aircraft during flight and to conduct a study of the safety impact of distracted pilots; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN (for himself, Ms. MIKULSKI, Mr. FRANKEN, and Mr. BENNET):

S. 2733. A bill to provide for the establishment of a Private Education Loan Ombudsman; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRANKEN (for himself and Mr. LUGAR):

S. 2734. A bill to amend the Public Health Service Act with respect to the prevention of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Florida (for himself, Ms. LANDRIEU, Mr. VITTER, and Mr. INHOFE):

S. 2735. A bill to prohibit additional requirements for the control of Vibrio vulnificus applicable to the post-harvest processing of oysters; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRANKEN (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, and Mr. HATCH):

S. 2736. A bill to reduce the rape kit backlog and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. KYL, Mr. CORNYN, Mr. LIEBERMAN, Mr. VITTER, and Mr. BUNNING):

S. 2737. A bill to relocate to Jerusalem the United States Embassy in Israel, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. 2738. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2739. A bill to amend the Federal Water Pollution Control Act to provide for the establishment of the Puget Sound Program Office, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. MURRAY (for herself, Mr. FRANKEN, and Mr. BROWN):

S. 2740. A bill to establish a comprehensive literacy program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. UDALL of New Mexico:

S. 2741. A bill to establish telehealth pilot projects, expand access to stroke telehealth services under the Medicare program, improve access to ''store-and-forward'' telehealth services in facilities of the Indian Health Service and Federally qualified health centers, reimburse facilities of the Indian Health Service as originating sites, establish regulations to consider credentialing and privileging standards for originating sites with respect to receiving telehealth services, and for other purposes; to the Committee on Finance.

By Mr. CASEY (for himself and Mr. BROWN):

S. 2742. A bill to provide for a Climate Change Worker and Community Assistance Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. WEBB, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2743. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

By Mr. BARRASSO (for himself, Mr. BINGAMAN, and Mr. ENZI):

S. 2744. A bill to amend the Energy Policy Act of 2005 to expand the authority for awarding technology prizes by the Secretary of Energy to include a financial award for separation of carbon dioxide from dilute sources; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Ms. KLOBUCHAR, Mr. ROCKEFELLER, Mr. LAUTENBERG, and Mr. FRANKEN):

S. 2745. A bill to prohibit the use of personal wireless communications devices and laptop computers by the flight crew of commercial aircraft on the flight deck of such aircraft during aircraft operations; to the Committee on Commerce, Science, and Transportation.

By Mr. SANDERS:

S. 2746. A bill to address the concept of ''Too Big To Fail'' with respect to certain financial entities; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HATCH (for himself, Mr. BINGAMAN, Mrs. MCCASKILL, Mr. COCHRAN, and Mr. RISCH):

S. Res. 338. A resolution designating November 14, 2009, as ''National Reading Education Assistance Dogs Day''; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. KAUFMAN, Mr. CORNYN, Mr. FEINGOLD, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. SCHUMER):

S. Res. 339. A resolution to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mrs. LINCOLN):

S. Res. 340. A resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict; to the Committee on Veterans' Affairs.

By Mr. CARDIN (for himself and Mr. LUGAR):

S. Res. 341. A resolution supporting peace, security, and innocent civilians affected by conflict in Yemen; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BINGAMAN, Ms. CANTWELL, Mr. CONRAD, Mr. CRAPO, Mr. FRANKEN, Mr. JOHNSON, Mr. MCCAIN, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, and Mr. UDALL of New Mexico):

S. Res. 342. A resolution recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; considered and agreed to.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Con. Res. 47. A concurrent resolution recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 448

At the request of Mr. SPECTER, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 448, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 456

At the request of Mr. DODD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish

school-based food allergy management grants, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 572, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the Armed Forces who have been awarded the Purple Heart.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 850

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. BINGAMAN) 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. 1067

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mrs. GILLIBRAND) 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. 1461

At the request of Mrs. BOXER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1461, a bill to amend the Internal Revenue Code of 1986 to treat trees and vines producing fruit, nuts, or other crops as placed in service in the year in which it is planted for purposes of special allowance for depreciation.

S. 1490

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1490, a bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

S. 1523

At the request of Mr. BURR, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1523, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals and families, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1635

At the request of Mr. DORGAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1635, a bill to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, and for other purposes.

S. 1681

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1681, a bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

At the request of Mr. BENNET, his name was added as a cosponsor of S. 1681, supra.

S. 1682

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1682, a bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes.

S. 1724

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1724, a bill to establish a competitive grant program in the Department of Justice to be administered by the Bureau of Justice Assistance which shall assist local criminal prosecutor's offices in investigating and prosecuting crimes of real estate fraud.

S. 1756

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1756, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof.

S. 1792

At the request of Mr. ROCKEFELLER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to modify the requirements for windows, doors, and skylights to be eligible for the credit for nonbusiness energy property.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1982

At the request of Mr. BROWN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1982, a bill to renew and extend the provisions relating to the identification of trade enforcement priorities, and for other purposes.

S. 2336

At the request of Mr. SESSIONS, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2336, a bill to safeguard intelligence collection and enact a fair and responsible reauthorization of the 3 expiring provisions of the USA PATRIOT Improvements and Reauthorization Act.

S. 2532

At the request of Mr. SPECTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2532, a bill to extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes.

S. 2729

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2729, a bill to reduce greenhouse gas emissions from uncapped domestic sources, and for other purposes.

S. 2730

At the request of Mr. BROWN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. RES. 71

At the request of Mr. WYDEN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 334

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 334, a resolution designating Thursday, November 19, 2009, as ''Feed America Day''.

AMENDMENT NO. 2669

At the request of Mr. GRAHAM, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of amendment No. 2669 proposed to H.R. 2847, a bill 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.

AMENDMENT NO. 2685

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 2685 intended to be proposed to H.R. 2847, a bill 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. NELSON, of Florida):

S. 2731. A bill to improve disaster assistance provided by the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, I come to the floor today to speak on an issue that is of great importance to my home State of Louisiana—Federal disaster preparedness. As you know, along the Gulf Coast, we keep an eye trained on the Gulf of Mexico during hurricane season. This is following the devastating one-two punch of Hurricanes Katrina and Rita of 2005 as well as Hurricanes Gustav and Ike last year. Our communities and businesses are still recovering from these disasters—some from a disaster that devastated the Gulf Coast almost 5 years ago. For this reason, as Chair of the Senate Committee on Small Business and Entrepreneurship disaster preparedness is one of my top priorities. While the Gulf Coast is prone to hurricanes, other parts of the country are no strangers to disaster. For example, the Midwest has tornadoes, California experiences earthquakes and wildfires, and the Northeast sees crippling snowstorms. So no part of our country is spared from disasters—disasters which can and will strike at any moment. With this in mind, we must ensure that the Federal Government is better prepared and has the tools necessary to respond quickly, effectively following a disaster.

As I mentioned, everyone around the country is familiar with the impact of Hurricanes Katrina and Rita on the New Orleans area and the southeast part of our state. Images from the devastation following these storms, and the subsequent Federal levee breaks, were transmitted around the country and around the world. This is because Katrina was the deadliest natural disaster in United States history, with 1,800 people killed—1,500 alone in Louisiana. Katrina was also the costliest natural disaster in United States history with over $81.2 billion in damage. In Louisiana, we had 18,000 businesses catastrophically destroyed and 81,000 businesses economically impacted. I believe that, across the entire Gulf Coast, some estimates ran as high as 125,000 businesses impacted by Katrina and Rita. While we have made significant progress in rebuilding infrastructure, housing, and our economy, I continue to hear from individual business owners who are struggling to fully recover. These business owners tell me that they have not been hit by one disaster but three: Hurricane Katrina in 2005, Hurricane Gustav in 2008, and the economic downturn. Louisiana was slow to feel the brunt of the credit crunch and economic meltdown but last year we began to see the drying up of investments and the shrinking of consumers' pocketbooks.

One business owner that I have met with is Charles R. ''Ray'' Bergeron. He and his wife own Fleur de Lis Car Care Center in New Orleans, Louisiana. Small Business Administration, SBA, Administrator Karen Mills and I toured Mr. Bergeron's business during a visit to New Orleans on June 30, 2009. As a result of Hurricane Katrina, Mr. and Mrs. Bergeron found themselves having to take out two loans, one for their house and another for their small business. Pre-Katrina, Fleur de Lis Car Care Center had 8 employees. As of our visit in June, they were down to 2 employees not including Mr. Bergeron. They have a $225,000 SBA disaster loan with a standard 30-year term. According to Mr. Bergeron, he will not pay it off until he is 101 years old. The business was back at about 40 percent of pre-Katrina sales, due in large measure to the population not being back. Their neighborhood is mostly empty homes. He attributes part of slow population recovery to high flood insurance premiums, high property taxes and high homeowner's insurance. These are the type of businesses that we must ensure keep their doors open: businesses that took the initiative to re-open right after the disaster. These ''pioneer'' businesses serve as anchors to the community in the early days of recovery. If residents see their favorite restaurant open or the local gas station, they are more likely to come back to rebuild their homes.

In order to help ongoing recovery efforts in the Gulf Coast, and to give the SBA more tools to respond after a future disaster, I am introducing the Small Business Administration Disaster Recovery and Reform Act of 2009. This legislation builds off of SBA disaster reforms enacted last year and also provides targeted assistance for Gulf Coast recovery. My bill also includes an important provision authorizing SBA to help families impacted by defective drywall manufactured in the People's Republic of China.

In terms of immediate recovery assistance, Title I of the bill includes three provisions which I believe will help both Gulf Coast businesses as well as families nationwide dealing with toxic drywall in their homes. First, this bill amends Section 12086 added by SBA disaster reforms in the 2008 Farm Bill. This provision created a Gulf Coast Disaster Loan Refinancing Program. The intent of the program, as I understand it from my colleagues in the House of Representatives, was to allow Gulf Coast businesses and homeowners to defer for up to 4 years, payments on SBA disaster loans. This provision certainly had good intentions, however, we are a year on and the program has yet to be implemented. That is because in practice the program would likely be re-amortizing the same debt and, under the Credit Reform Act, to refinance a $1,000,000 disaster loan would require $1,000,000 in additional funding. To try to salvage this program, my bill would require SBA to report back to Congress in 30 days with recommendations on improving this program. These recommendations could include such additional options as modifying the end of the deferment date of loans, reducing interest payments on loans, extending out the term of loans to 35 years or other changes to the program that might make it more workable. I believe this program is on the right track, Congress just needs advice from the SBA on how we can make it work better to actually help people in the Gulf Coast.

The next provision in Title I relates to minority businesses in the Gulf Coast that were impacted by Hurricanes Katrina and Rita. Everyone is familiar with the images and the cost of these storms, but they may not be too familiar with the impact on individual businesses. In particular, I am speaking about the affects of Hurricanes Katrina and Rita on minority firms in the Gulf Coast. As a result of these storms, many minority firms in the Gulf Coast were disrupted and thus lost valuable time for participating in the 8(a) program. The 8(a) business development initiative, created under the Small Business Administration, helps minority entrepreneurs access Federal contracts and allows companies to be certified for increments of three years. These contracts are vital to the revival of these impacted areas. However, as currently structured the program allows businesses to participate for a limited length of time, 9 years, after which they can never re-apply nor get back into the program. It is imperative that we provide contracting assistance to our local minority businesses.

My bill includes a provision which would tackle this problem in three important ways. First, the bill extends 8(a) eligibility for program participants in Katrina/Rita-impacted areas in Louisiana, Mississippi, and Alabama by 24 months. The bill would also apply to any areas in the state of Louisiana, Mississippi and Alabama that have been designated by the Administrator of the Small Business Administration as a disaster area as a result of Hurricanes Katrina or Rita. Lastly, the bill would require the administrator of the Small Business Administration to ensure that every small business participating in the 8(a) program before the date of enactment of the Act is reviewed and brought into compliance with this act. This requirement would ensure that any eligible previous 8(a) participants will be allowed back into

the program. As such, these key provisions would ensure that these businesses continue to play a vital role in rebuilding their communities. I note that I introduced a similar provision as part of S. 3285, the Disadvantaged Business Disaster Eligibility Act during the 110th Congress. Last Congress, the proposal passed the House of Representatives but we were unable to pass the legislation here in the Senate before we adjourned for the year. I look forward to renewing my fight this Congress as I believe that this is a commonsense proposal which would not cost a great deal. It would, however, make a huge difference for these businesses impacted by Katrina and Rita.

The last recovery-related provision in Title I of the bill is focused on families impacted by defective drywall manufactured in the People's Republic of China. Since 2006, more than 550 million pounds of drywall have been imported to the United States from China. This drywall was used because at the time there was a shortage of product by domestic drywall producers and there was increased demand due to recovery from the 2004/2005 hurricanes and the housing boom. In the last 20 months, however, countless homeowners across the country have reported serious metal corrosion, noxious fumes, and health concerns. Reported symptoms have included bloody noses, headaches, insomnia, and skin irritation. Preliminary testing has confirmed that imported defective drywall is the problem, but these tests have not been able to pinpoint the problem substance in the drywall.

Just last week, the Consumer Product Safety Commission, CPSC, released additional preliminary results of this drywall which did not identify the exact cause but did outline areas for concern. First, CPSC tested Chinese drywall and compared it with U.S.-made drywall. Chinese drywall contained elemental sulfur and higher levels of strontium—both not in domestic drywall. These findings are similar to May 2009 test results from the Environmental Protection Agency, EPA. Strontium and sulfur, in increased levels, have been linked to possible health problems. CPSC also carried out chamber testing on emissions from samples of Chinese-made and domestic drywall. Early results show that Chinese drywall emits volatile sulfur compounds at a higher rate than U.S. drywall. Further testing is underway to determine the specific compounds being emitted. Lastly, Federal officials analyzed indoor air results from 10 homes in Florida and Louisiana. This study led to a preliminary finding of detectable concentrations of two known irritants: acetaldehyde and formaldehyde. The concentrations were at levels that could worsen asthma or other conditions, especially when air conditioners were off/not working. Later this month, the CPSC is expected to release more comprehensive information on Chinese drywall. This includes results of a 50-home air sampling project and a preliminary engineering analysis of potential electrical/fire safety issues related to metal corrosion. Key to any results would be Federal recommendations on testing and remediation protocols for Chinese drywall. This would be crucial for homeowners who currently have no definitive way to prove they have Chinese drywall in their homes or procedures to remove the product for good.

In total, as of last week the CPSC had received 1,900 incident reports from 30 States, the District of Columbia and Puerto Rico. The majority of these reports, 1,317, came from Florida, with Louisiana next, 339, followed by Virginia, 69, Mississippi, 63, and Alabama, 32. These figures demonstrate that this problem is not just an obstacle to Gulf Coast recovery efforts but may also pose a threat to homeowners across the country.

To help homeowners struggling with this defective product, I have worked closely over the past few months with my Senate colleagues from Florida and Virginia. This summer, Senator BILL NELSON and I were successful, along with the leadership of the Senate Appropriations Committee, in pushing the CPSC to allocate $2,000,000 in unobligated funds to help the Chinese drywall investigation. Senator NELSON and Senators MARK WARNER and JIM WEBB from Virginia also wrote to the Internal Revenue Service inquiring if they could assist homeowners. The IRS indicated in July that homeowners may be able to claim a casualty loss on their tax returns if they have Chinese drywall that emits an unusual or severe concentration of chemical fumes that causes extreme and unusual damage. We have also written to the Federal Emergency Management Agency, FEMA, inquiring if the agency could provide emergency rental assistance as it has done in the past.

In July, my Senate colleagues and I wrote to the SBA asking what they could do under existing authority to help these families. In its October 29, 2009, response to this letter, SBA indicated that it did not currently have the authority to assist homeowners impacted by drywall. This is because, under the current law, SBA's definition of a disaster only includes typical natural disasters such as tornadoes, hurricanes, wildfires, or snowstorms. However, it is my understanding that for previous disasters, there is a precedent in Congress authorizing SBA to respond to a specific disaster and one instance where Congress tasked $25,000,000 in existing funds to help ongoing recovery efforts. Manufacturers of this product should bear the majority of the financial burden for remediation but I believe there is a limited role for SBA to play in assisting homeowners with toxic drywall.

For this reason, the legislation I am introducing today includes an authorization for the SBA Administrator to provide disaster home loans in States in which a Governor declares a disaster because of defective drywall. The provision would cover drywall which entered the United States from China from 2004 to 2008 and is demonstrated to cause corrosion or property damage. I note that this provision would not provide SBA funds for losses or damage covered by insurance or other sources. This authorization also caps the funding at this program at no more than 25 percent of the funds appropriated for SBA disaster assistance. In a normal Appropriations cycle, this would equate to about $25,000,000 in funds or $250,000,000 in actual disaster loans. If enacted, this provision would go a long way towards helping these struggling families.

While it is important to respond to ongoing recovery-related needs across the country, we must also ensure that the SBA is better prepared for future disasters. To these ends, my committee held a field hearing in Galveston, Texas on September 25, 2009. This hearing focused on the initial Federal response and ongoing recovery efforts from Hurricane Ike in 2008. The hearing was the first Congressional hearing held in Galveston since Hurricane Ike struck the Texas Gulf Coast last year. With this in mind, we were able to hear firsthand Federal, State, and local officials on the progress of rebuilding Galveston Island. My committee also heard from business owners on the challenges that emerged in the year that passed since Ike made landfall.

This hearing highlighted improvements in SBA's disaster programs since the 2005 storms. For example, after Katrina and Rita, the Federal response was slow; planning was insufficient, and staff and funding came up short. Following the 2005 storms, it took SBA 90 days to process a home loan and 70 days to process a business loan. After this woeful performance, I pushed for a change in SBA leadership and changes in the way they respond to disasters. In 2006, a new SBA Administrator, Steve Preston, took over and, at my request, he implemented a new SBA Disaster Response Plan in time for the 2007 hurricane season. This plan was a major improvement over the unwieldy, bureaucratic procedures that guided SBA post-Katrina/Rita. SBA will also be submitting to Congress in the next few weeks 2009 revisions to the Disaster Response Plan. I look forward to reviewing these changes in the event that additional improvements are needed.

Last year, as part of the 2008 Farm Bill, Congress also passed legislative reforms to SBA's disaster programs. These reforms, along with other key improvements: Increased SBA loan limits from $1.5 million to $2 million; created new tools such as bridge loans or private disaster loans following catastrophic disasters; required coordination between FEMA, SBA, and the IRS; and allowed nonprofits, for the first time, to be eligible for SBA economic injury disaster loans. Earlier this year, our committee heard testimony from

local officials in southwest Louisiana that SBA was better prepared and more responsive following Gustav and Ike. As evidence of this, I note that it took 5 days to process a home loan following Ike, compared to the 90 days after Katrina and Rita. Business loans averaged a little over a week to process, compared to the 70 days in 2005.

However, although we heard about improvements to SBA's disaster response at the Galveston hearing, we also learned of additional areas that SBA could further improve its operations. While SBA is processing loans faster, there are still complaints from disaster victims on paperwork and bureaucracy. For example, as of August 31, SBA had received about 2,400 business applications for disaster assistance in Galveston County. 536 of those applications were approved for $84 million but, to date, only $24 million has been disbursed for 280 of these loans. In light of these facts, I am concerned that 2008 disaster reforms might not have gone far enough in giving SBA the tools it needs to help businesses and homeowners after a future disaster. Title II of my legislation dovetails upon the reforms from last year to improve SBA coordination with other disaster response agencies. This section also makes SBA disaster loans more effective in reaching disaster victims most in need of assistance.

As indicated above, when Katrina hit, our businesses and homeowners had to wait months for loan approvals. I do not know how many businesses we lost because help did not come in time. Because of the scale of this disaster, what these businesses needed was immediate, short-term assistance to hold them over until SBA was ready to process the tens of thousands of loan applications it received. That is why in last year's SBA disaster reforms, I included a provision—the Expedited Disaster Assistance Loan Program—to allow the SBA Administrator with the ability to set up a program to make short-term, low-interest loans to keep them afloat. These loans will allow businesses to make payroll, begin making repairs, and address other immediate needs while they are awaiting insurance payouts or regular SBA Disaster Loans.

This provision also directed SBA to study ways to expedite disaster loans for those businesses in a disaster area that have a good, solid track record with the SBA or can provide vital recovery efforts. We had many businesses in the Gulf Coast that had paid off previous SBA loans, were major sources of employment in their communities, but had to wait months for decisions on their SBA Disaster Loan applications. I do not want to get rid of the SBA's current practice of reviewing applications on a first-come-first-served basis, but there should be some mechanism in place for major disasters to get expedited loans out the door to specific businesses that have a positive record with SBA or those that could serve a vital role in the recovery efforts. Expedited loans would jump-start impacted economies, get vital capital out to businesses, and retain essential jobs following future disasters.

While I am proud of this provision, I believe that with a few additional revisions, this program could be more successful. For this reason, Section 201 of this bill increases the loan limit from $150,000 to $250,000 and allows the SBA Administrator to utilize this program, as needed, in either a catastrophic or a major disaster. Currently, the program is limited only to a catastrophic disaster, despite the fact that another bridge loan program from the 2008 Farm Bill—the Immediate Disaster Assistance Loan Program—is available for both catastrophic and major disasters. I realize that every disaster is different and could range from a disaster on the scale of Hurricane Katrina or 9/11, to an ice storm or drought. The modification in my bill would allow SBA additional options and flexibility in the kinds of relief they can offer a community. When a tornado destroys 20 businesses in a small town in the Midwest, SBA can get the regular disaster program up and running fairly quickly. You may not need short-term loans in this instance. But if you know that SBA's resources would be overwhelmed by a storm—just as they were initially with Katrina—these expedited business loans would be very helpful. This section also changes the name of the program to the ''Pioneer Business Recovery Program'' as the intent of the program is to help ''second responder'' or ''pioneer'' businesses that want to reopen immediately following a storm.

The next provision of my bill, Section 202, increases SBA disaster loan limits. In particular, it is my understanding that SBA's disaster home loan limits have not been adjusted since the 1990s. The current limit for SBA disaster loans to replace personal property is $40,000, and the limit for SBA disaster loans to repair damaged homes is $200,000. My legislation would increase the limits to $80,000 and $400,000, respectively. The bill also increases the SBA disaster business loan limit from $2,000,000 to $4,000,000. I believe that these increases would allow SBA to better address the needs of disaster victims in the future.

Section 203 of the bill authorizes SBA to create a State Bridge Loan Guarantee Program. This program would enhance existing partnerships between SBA and States which administer bridge loan programs following disasters. Currently, SBA consults with States pre-disaster on the structure of their program. This is to ensure that these programs run effectively and do not duplicate assistance provided by the SBA disaster assistance program. There are various States, including Louisiana and Florida, which have successful bridge loan programs, and other States which would consider this type of program if there was better Federal-State coordination. Section 203 would allow the SBA Administrator to issue guidelines on an SBA-approved bridge loan program. After issuing these guidelines, SBA could then review State applications and, if necessary, guarantee bridge loans from approved States following a disaster. I would note that this provision was part of S. 3664, the Small Business Disaster Recovery Assistance Improvements Act of 2006 which I introduced in the 109th Congress.

Another provision which I would like to highlight in this bill is Section 205. This section amends the Small Business Act to make aquaculture businesses eligible for SBA Economic Injury Disaster Loans. Currently, such businesses, including crawfish farmers, oyster farmers, shellfish farmers, are excluded from eligibility for these loans. In Louisiana, our aquaculture businesses in the southern part of the State were hit hard by both Hurricane Katrina and Rita. These businesses, many crawfish far ers or those with fish farms, were ineligible for U.S. Department of Agriculture, USDA, disaster assistance, but were also ineligible for SBA disaster loans. We also learned that similar problems followed Hurricanes Gustav and Ike in 2008. I believe that the commonsense fix in my bill will give these businesses the help they need to recover from future disasters.

I am concerned about the larger problem which was raised by aquaculture businesses in my State being caught in limbo between USDA and SBA disaster programs. SBA for example provides physical and economic injury disaster loan assistance to businesses that are victims of a declared disaster. However, the Small Business Act excludes agricultural enterprises from eligibility. The act defines ''agricultural enterprises'' as ''those businesses engaged in the production of food and fiber, ranching, and raising livestock, aquaculture, and all other farming and agricultural related industries.'' Thus, if a business is an agricultural enterprise, SBA is prohibited from providing disaster loan assistance. Prior to 1976, agricultural enterprises were covered by USDA only, and between 1976 and 1986, several statutes allowed agricultural enterprises to be eligible for SBA assistance under certain conditions. As a result of a couple of factors though including duplication of benefits, disparity of service between SBA and USDA and loan shopping, Public Law. 99–272 repealed agricultural eligibility for SBA disaster loans. Since then, all agricultural enterprises have been referred to USDA for disaster loans.

Though USDA has several disaster programs, most are related to production loss of crops. The Farm Service Agency's Emergency Loan Program covers some agriculture related disaster losses, but operates under different eligibility rules from SBA. They

are limited to production on agriculture operations and restrict eligibility to ''family farm'' operations. The disparity between eligibility requirements for the SBA and USDA has resulted in many agricultural businesses being ineligible for disaster assistance at all. Included in that category are horse-related businesses, feedlots, animal breeders and sellers, nurseries, floriculture, tree farms, fish or shellfish business, seed producers, along with others. That is because, to currently be eligible for an SBA disaster loan, a primarily agricultural enterprise must have a separable non-agricultural component, which may be eligible for physical disaster loan assistance provided that it is a separate part of the agricultural enterprise, with separate income, operations, expenses, assets, etc. For economic injury disaster loan assistance, the Small Business Act limits eligibility to small businesses, small agricultural cooperatives, producer cooperatives, and private non-profit organizations. Therefore, the business must meet the eligibility requirements for a small business, and for purposes of EIDL eligibility, the activity of a business must be nonagricultural.

To try to identify some of these gaps between USDA and SBA disaster assistance, Section 209 would require SBA, in consultation with USDA, to report to Congress within 120 days. This report would identify gaps in assistance and provide recommended legislative/administrative changes to fix these problems. For my part, I would like to get these agencies on the same page to ensure that businesses in need—whether they be small businesses or agricultural businesses—are not deprived of assistance if a disaster happens in their area.

In closing, the legislation I am introducing today is an important first step for the Small Business Administration. That is because I am hopeful that, at the appropriate time, my committee can send to the full Senate legislation which will both reform SBA's disaster programs and address ongoing recovery needs across the country. With that goal in mind, I plan to work with my colleagues on both sides of the aisle in the coming months to identify their priorities on these issues.

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

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

S. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Administration Disaster Recovery and Reform Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''approved State Bridge Loan Program'' means a State Bridge Loan Program approved under section 203(b);

(3) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act; and

(4) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Definitions.
Sec. 3. Table of contents.
TITLE I—GULF COAST RECOVERY AND ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA
Sec. 101. Report on the Gulf Coast Disaster Loan Refinancing Program.
Sec. 102. Extension of participation term for victims of Hurricane Katrina or Hurricane Rita.
Sec. 103. Assistance for homeowners impacted by drywall manufactured in the People's Republic of China.
TITLE II—IMPROVEMENTS TO ADMINISTRATION DISASTER ASSISTANCE PROGRAMS
Sec. 201. Improvements to the Pioneer Business Recovery Program.
Sec. 202. Increased limits.
Sec. 203. State bridge loan guarantee.
Sec. 204. Modified collateral requirements.
Sec. 205. Aquaculture business disaster assistance.
Sec. 206. Regional outreach on disaster assistance programs.
Sec. 207. Duplication of benefits.
Sec. 208. Administration coordination on economic injury disaster declarations.
Sec. 209. Coordination between Small Business Administration and Department of Agriculture disaster programs.
Sec. 210. Technical and conforming amendment.

TITLE I—GULF COAST RECOVERY AND ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA

SEC. 101. REPORT ON THE GULF COAST DISASTER LOAN REFINANCING PROGRAM.

Section 12086 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2184) is amended by adding at the end the following:

''(g) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report making recommendations regarding improvements to the program.

''(2) CONTENTS.—The report under paragraph (1) may include recommendations relating to—

''(A) modifying the end of the deferment date of Gulf Coast disaster loans;

''(B) reducing interest payments on Gulf Coast disaster loans, subject to the availability of appropriations;

''(C) extending the term of Gulf Coast disaster loans to 35 years; and

''(D) any other modification to the program determined appropriate by the Administrator.''.

SEC. 102. EXTENSION OF PARTICIPATION TERM FOR VICTIMS OF HURRICANE KATRINA OR HURRICANE RITA.

(a) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in subsection (b) of this section and was affected by Hurricane Katrina of 2005 or Hurricane Rita of 2005, the period during which that small business concern is permitted continuing participation and eligibility in that program or activity shall be extended for 24 months after the date such participation and eligibility would otherwise terminate.

(b) PARISHES AND COUNTIES COVERED.—Subsection (a) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 or Hurricane Rita of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10205, or 10206.

(c) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the case of every small business concern participating before the date of enactment of this Act in a program or activity covered by subsection (a) is reviewed and brought into compliance with this section.

SEC. 103. ASSISTANCE FOR HOMEOWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) DEFINITIONS.—In this section, the term ''defective drywall'' means drywall board that the Administrator determines—

(1) was manufactured in the People's Republic of China;

(2) was imported into the United States during the period beginning on January 1, 2004, and ending on December 31, 2008; and

(3) is directly responsible for substantial metal corrosion or other property damage in the dwelling in which the drywall is installed.

(b) DISASTER ASSISTANCE FOR HOMEOWNERS IMPACTED BY DEFECTIVE DRYWALL.—

(1) IN GENERAL.—The Administrator may, upon request by a Governor that has declared a disaster as a result of property loss or damage as a result of defective drywall, declare a disaster under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) relating to the defective drywall.

(2) USES.—Assistance under a disaster declared under paragraph (1) may be used only for the repair or replacement of defective drywall.

(3) LIMITATION.—Assistance under a disaster declared under paragraph (1) may not—

(A) provide compensation for losses or damage compensated for by insurance or other sources; and

(B) exceed more than 25 percent of the funds appropriated to the Administration for disaster assistance during any fiscal year.

TITLE II—IMPROVEMENTS TO ADMINISTRATION DISASTER ASSISTANCE PROGRAMS

SEC. 201. IMPROVEMENTS TO THE PIONEER BUSINESS RECOVERY PROGRAM.

(a) IN GENERAL.—Section 12085 of the Food, Conservation, and Energy Act of 2008 (15 U.S.C. 636j) is amended—

(1) in the section heading, by striking ''**EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM**'' and inserting ''**PIONEER BUSINESS RECOVERY PROGRAM**'';

(2) by striking ''expedited disaster assistance business loan program'' each place it

appears and inserting ''Pioneer Business Recovery Program'';

(3) in subsection (b) by striking ''paragraph (9)'' and all that follows and inserting ''section 7(b) of the Small Business Act (15 U.S.C. 636(b)).''; and

(4) in subsection (d)(3)(A), by striking ''$150,000'' and inserting ''$250,000''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1651) is amended by striking the item relating to section 12085 and inserting the following:

''Sec. 12085. Pioneer Business Recovery Program.''.

SEC. 202. INCREASED LIMITS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) in subsection (d)(6)—

(A) by striking ''$100,000'' and inserting ''$400,000''; and

(B) by striking ''$20,000'' and inserting ''$80,000'';

(2) by striking ''(e) [RESERVED].''; and

(3) by striking ''(f) [RESERVED].''.

SEC. 203. STATE BRIDGE LOAN GUARANTEE.

(a) AUTHORIZATION.—After issuing guidelines under subsection (c), the Administrator may guarantee loans made under an approved State Bridge Loan Program.

(b) APPROVAL.—

(1) APPLICATION.—A State desiring approval of a State Bridge Loan Program shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may require.

(2) CRITERIA.—The Administrator may approve an application submitted under paragraph (1) based on such criteria as the Administrator may establish under this section.

(c) GUIDELINES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue to the appropriate economic development officials in each State, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, guidelines regarding approved State Bridge Loan Programs.

(2) CONTENTS.—The guidelines issued under paragraph (1) shall—

(A) identify appropriate uses of funds under an approved State Bridge loan Program;

(B) set terms and conditions for loans under an approved State Bridge loan Program;

(C) address whether—

(i) an approved State Bridge Loan Program may charge administrative fees; and

(ii) loans under an approved State Bridge Loan Program shall be disbursed through local banks and other financial institutions; and

(D) establish the percentage of a loan the Administrator will guarantee under an approved State Bridge Loan Program.

SEC. 204. MODIFIED COLLATERAL REQUIREMENTS.

Section 7(d)(6) of the Small Business Act (15 U.S.C. 636(d)(6)) is amended by inserting after ''which are made under paragraph (1) of subsection (b)'' the following: '': *Provided further*, That the Administrator shall not require collateral for a loan of not more than $200,000 under paragraph (1) or (2) of subsection (b) relating to damage to or destruction of property of, or economic injury to, a small business concern''.

SEC. 205. AQUACULTURE BUSINESS DISASTER ASSISTANCE.

Section 18(b)(1) of the Small Business Act (15 U.S.C. 647(b)(1)) is amended—

(1) by striking ''aquaculture,''; and

(2) by inserting before the semicolon '', and does not include aquaculture''.

SEC. 206. REGIONAL OUTREACH ON DISASTER ASSISTANCE PROGRAMS.

(a) REPORT.—In accordance with sections 7(b)(4) and 40(a) of the Small Business Act (15 U.S.C. 636(b)(4) and 657l(a)) and not later than 60 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report detailing—

(1) information on the disasters, manmade or natural, most likely to occur in each region of the Administration and likely scenarios for each disaster in each region;

(2) information on plans of the Administration, if any, to conduct annual disaster outreach seminars, including events with resource partners of the Administration, in each region before periods of predictable disasters described in paragraph (1);

(3) information on plans of the Administration for satisfying the requirements under section 40(a) of the Small Business Act not satisfied on the date of enactment of this Act; and

(4) such additional information as determined necessary by the Administrator.

(b) AVAILABILITY OF INFORMATION.—The Administrator shall—

(1) post the disaster information provided under subsection (a) on the website of the Administration; and

(2) make the information provided under subsection (a) available, upon request, at each regional and district office of the Administration.

SEC. 207. DUPLICATION OF BENEFITS.

(a) FINDINGS.—Congress finds the following:

(1) Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) states the following:

(A) ''The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.''.

(B) ''Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.''.

(C) A recipient of Federal assistance will be liable to the United States ''to the extent that such assistance duplicates benefits available to the person for the same purpose from another source.''.

(2) The Administrator should make every effort to ensure that disaster recovery needs unmet by Federal and private sources are not overlooked in determining duplication of benefits for disaster victims.

(b) REVISED DUPLICATION OF BENEFITS CALCULATIONS.—The Administrator may, after consultation with other relevant Federal agencies, determine whether benefits are duplicated after a person receiving assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) receives other Federal disaster assistance by a disaster victim.

SEC. 208. ADMINISTRATION COORDINATION ON ECONOMIC INJURY DISASTER DECLARATIONS.

Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report providing—

(1) information on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) made by the Administrator during the 10-year period ending on the date of enactment of this Act based on a natural disaster declaration by the Secretary of Agriculture;

(2) information on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) made by the Administrator during the 10-year period ending on the date of enactment of this Act based on a fishery resource disaster declaration from the Secretary of Commerce;

(3) information on whether the disaster response plan of the Administration under section 40 of the Small Business Act (15 U.S.C. 657l) adequately addresses coordination with the Secretary of Agriculture and the Secretary of Commerce on economic injury disaster assistance under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2));

(4) recommended legislative changes, if any, for improving agency coordination on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)); and

(5) such additional information as determined necessary by the Administrator.

SEC. 209. COORDINATION BETWEEN SMALL BUSINESS ADMINISTRATION AND DEPARTMENT OF AGRICULTURE DISASTER PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) the term ''agricultural small business concern'' means a small business concern that is an agricultural enterprise, as defined in section 18(b)(1) of the Small Business Act (15 U.S.C. 647(b)(1)), as amended by this Act; and

(2) the term ''rural small business concern'' means a small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report detailing—

(1) information on disaster assistance programs of the Administration for rural small business concerns and agricultural small business concerns;

(2) information on industries or small business concerns excluded from programs described in paragraph (1);

(3) information on disaster assistance programs of the Department of Agriculture to rural small business concerns and agricultural small business concerns;

(4) information on industries or small business concerns excluded from programs described in paragraph (3);

(5) information on disaster assistance programs of the Administration that are duplicative of disaster assistance programs of the Department of Agriculture;

(6) information on coordination between the two agencies on implementation of disaster assistance provisions of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1651), and the amendments made by that Act;

(7) recommended legislative or administrative changes, if any, for improving coordination of disaster assistance programs, in particular relating to removing gaps in eligibility for disaster assistance programs by rural small business concerns and agricultural small business concerns; and

(8) such additional information as determined necessary by the Administrator.

SEC. 210. TECHNICAL AND CONFORMING AMENDMENT.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended in the matter following paragraph (9), by striking ''section 312(a) of the Disaster Relief and Emergency Assistance Act'' and inserting ''section 312(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155(a))''.

SMALL BUSINESS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, DC, October 28, 2009.

Hon. MARY LANDRIEU,
Chairwoman, Committee on Small Business & Entrepreneurship, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRWOMAN: Thank you for your letter requesting that the U.S. Small Business Administration (SBA) review its existing authority under the Stafford Act to provide disaster assistance to affected businesses and homeowners impacted by the use of allegedly defective drywall. Having toured New Orleans earlier this year, I share your concern for the victims of Hurricane Katrina.

The Stafford Act is the general statutory authority for most Federal disaster response activities as they pertain to Federal Emergency Management Authority (FEMA) programs. When, pursuant to the Stafford Act, the President declares a Major Disaster or emergency and authorizes Federal assistance, including individual assistance, SBA is authorized to make physical disaster loans and economic injury disaster loans to disaster victims. In addition, SBA has the authority under the Small Business Act (Act) to issue disaster declarations and to make physical and economic injury disaster loans to disaster victims in SBA-declared disasters. Under the Act, a ''disaster'' is generally defined as a sudden event which causes severe damage. Product defects do not fall within the statutory definition for a ''disaster.'' Thus, SBA has never based a disaster declaration on defective products. While we are sympathetic to these victims, the installation of defective drywall likewise would not fall within this statutory definition and could not serve as the basis for an SBA disaster declaration.

In response to the specific issues raised in your letter, SBA does have the authority to disburse additional funds to existing disaster borrowers for disaster-related damage that is discovered within a reasonable time after original loan approval and before repairs are complete. However, if the repair, replacement or rehabilitation of the disaster-damaged property has been completed, SBA does not increase an existing loan.

You also asked whether SBA may issue a disaster declaration based on a request from a Governor. After SBA receives a request from a Governor that satisfies the statutory and regulatory requirements, SBA can issue a physical or economic injury disaster declaration and make low interest loans to cover uninsured losses. As noted above, however, the installation of defective drywall would not qualify as a disaster under the SBA's statutory definition.

Thank you again for your continued support of the SBA disaster loan program and the small business community. A similar response is being sent to your colleagues, Senators Nelson, Warner, and Webb.

With warmest regards,

KAREN G. MILLS.

U.S. SENATE,
Washington, DC, July 28, 2009.

Hon. KAREN G. MILLS,
Administrator, U.S. Small Business Administration, Washington, DC.

DEAR ADMINISTRATOR MILLS: As we write to you, the Consumer Product Safety Commission (CPSC) and the Environmental Protection Agency (EPA), in coordination with other Federal and State agencies, are conducting a comprehensive investigation into the health and safety impacts of Chinese-made drywall on American consumers. The U.S. Small Business Administration (SBA) has an important role in disaster response and recovery efforts—helping both homeowners and businesses impacted by manmade and natural disasters. We believe that, at the appropriate time, your agency may be of assistance to homeowners impacted by this toxic product.

Since 2006, more than 550 million pounds of drywall have been imported to the United States from China. In the last 18 months, countless homeowners across the country have reported serious metal corrosion, noxious fumes and health concerns. Reported symptoms have included bloody noses, headaches, insomnia and skin irritation. Preliminary testing has confirmed that imported defective drywall is the problem, but these tests have not been able to pinpoint the specific problem substance within the drywall. More comprehensive results are expected from CPSC and EPA in August/September. In total, the CPSC has received 608 incident reports from 21 states and the District of Columbia, demonstrating that this poses a threat to homeowners across the country.

With this in mind, we respectfully request that the SBA review its existing authority under the Stafford Act and respond no later than August 28, 2009 on the following:

Whether SBA may disburse additional funds on SBA Real Property Disaster Loans from previous disaster or emergency declarations (such as Hurricanes Katrina and Rita in 2005, the 2004 Florida Hurricanes, the 2008 Midwest floods, or other emergency/disaster declarations).

Also outline if the SBA can waive the two year time limit for requesting an increase in loan limits since extraordinary and unforeseeable circumstances may apply in this situation;

Whether SBA—following a written request from a Governor that has declared a disaster or emergency—may make a physical disaster declaration if homes, businesses or a combination of the two, have sustained uninsured losses; and

Whether SBA may make an economic injury declaration if it is demonstrated that at least five small businesses in a disaster area have suffered economic injury as a result of the disaster or emergency and are in need of financial help not otherwise available.

In closing, families in our states are, in many cases, watching their dream homes turn into nightmares. As the Federal government determines the full size and scope of this disaster, we believe it is important to marshal all appropriate Federal resources that may assist these families. We therefore thank you for your consideration of this important request.

Sincerely,

MARY L. LANDRIEU,
U.S. Senator.
BILL NELSON,
U.S. Senator.
MARK R. WARNER,
U.S. Senator.
JIM WEBB,
U.S. Senator.

By Mr. FRANKEN (for himself and Mr. LUGAR):

S. 2734. A bill to amend the Public Health Service Act with respect to the prevention of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, right now many of us are engaged in a worthwhile discussion about health care and health insurance. These are immensely important topics, and I look forward to working with all colleagues to pass health reform this year. In these broader discussions, it is easy to forget that the best way to become a healthier country with lower health care costs is to prevent Americans from becoming sick in the first place. A great place to prioritize wellness over sickness comes in our prevention of diabetes.

Today 24 million Americans suffer from diabetes, and the epidemic is getting worse. If we do not make some changes soon, the prevalence of the disease will double over the next 30 years. The annual cost of diabetes in the country is expected to reach $338 billion by 2020. Right now 57 million Americans are what is considered prediabetic.

That means they are at risk of developing the full-blown disease because they have high blood pressure or high glucose levels. These statistics include over a million adults and 92,000 youth in my State alone. These are Minnesotans who may find out tomorrow they have become diabetic.

We know that diabetes may become debilitating and require costly medical interventions, from daily injections of insulin all the way to amputations. We know how devastating this disease is from the stories we hear when we are back home.

This week I was on the floor and shared the story of Liz MacCaskie from Minneapolis. She lost her job in September and is 58 years old, my exact age. She lives with diabetes and was just diagnosed with kidney failure. She is paying close to $20,000 a year for her insurance and trying to live on $1,000 a month.

If we could help people such as Liz avoid the pain and suffering that comes from diabetes, it would be a healthier, more prosperous country. The good news is that we can help Americans avoid this costly and debilitating disease. Research has shown that prediabetics can avoid full-blown diabetes if they receive access to community services such as nutrition counseling and gym memberships. These are proven to cut the risk of developing diabetes in half.

I am pleased to be offering legislation with Senator LUGAR to ensure that prediabetics have access to services that will stop this disease in its tracks. The Diabetes Prevention Act is based on an NIH research study done in partnership with the YMCA in Indiana. The study showed that a 16-week intensive lifestyle program can prevent diabetes and cost less than $300 per person—less than $300 per person—per

year. Studies have shown us that this investment can save us money within 2 to 3 years.

The Minnesota Department of Health has been working with our local YMCAs in Willmar, Rochester, and Minneapolis to implement this program. We have a diverse group of instructors who speak Spanish, Hmong, Somali, and American Sign Language. They include parish nurses, dietitians, and community health educators. All these folks are helping community members to eat healthier and become more physically active. For the lucky people who get to participate in these programs, it is working. They are losing weight, getting healthier, and avoiding diabetes.

But right now, these efforts are a drop in the bucket because the epidemic is so great. With this bill, we will replicate this cost-effective program and improve the lives of millions of Americans. This bill will help communities across the country to set up diabetes prevention programs—on Indian reservations, in rural areas, and urban centers. Ultimately, health insurance companies will be reimbursing for these services because prevention saves money and it saves lives.

This is an investment in our Nation's future. I look forward to working with my colleagues to enact this important legislation.

By Mr. FRANKEN (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, and Mr. HATCH):

S. 2736. A bill to reduce the rape kit backlog and for other purposes; to the Committee on the Judiciary.

Mr. FRANKEN. Mr. President, sexual assault is a heinous crime. It is also a startlingly common one. Last year, 90,000 people were raped. We as a Nation have an obligation to help the survivors of sexual assault—by providing them prompt medical attention, and by bringing their assailants to justice.

Thanks to modern technology, we have an unparalleled tool to bring sexual predators to justice: forensic DNA analysis. Using the DNA evidence collected in a rape kit, a police department can conclusively identify an assailant—even when the survivor cannot visually identify her attacker. When DNA collected in rape kits matches existing DNA records, police can quickly capture habitual rapists before they strike again. Rape kit DNA evidence is survivors' best bet for justice. It is also communities' best bet for public safety.

Unfortunately, we have failed to make adequate use of DNA analysis. In 1999, a study commissioned by the National Institute of Justice estimated that there was a backlog of over 180,000 untested rape kits. In 2004, responding to studies like this one, then-Senator BIDEN, Chairman LEAHY and others worked to pass the Debbie Smith Act, a law named after a rape survivor whose backlogged rape kit was tested six years after her assault. That act provided federal funding for the testing of backlogged DNA evidence. Unfortunately, it did not require those funds to test DNA evidence in rape kits.

Because of this loophole—and because many States and localities simply did not use the Debbie Smith funds they were allocated—the promise of the Debbie Smith Act remains unfulfilled. Since 2004, the federal government has distributed about $500 millions in Debbie Smith grants to law enforcement agencies around the country. Local figures suggest that these funds have not had their intended effect. In March 2009, Los Angeles County had 12,500 untested rape kits in police storage. L.A. County is not alone. This fall, the Houston Police Department found at least 4,000 untested rape kits in storage, and Detroit reported a backlog of possibly 10,000 kits.

Those are just three cities. This means that potentially hundreds of thousands of rape kits are sitting, untested, in police departments and crime labs around the country. That is hundreds of thousands of women who have not seen justice. That is countless assailants still free and countless new assaults that have occurred because of this. The New York Times recently highlighted a case which occurred years after the passage of The Debbie Smith Act where a rapist struck twice while the rape kit for one of his earlier victims sat unprocessed at a State crime lab. Sadly, that lab's four month processing delay was one of the shortest in the state.

When rape kits are not tested, rapists are not caught. When rape kits are not tested, more women are raped. Having a backlog of thousands of kits endangers our communities and sends a clear message to perpetrators and survivors of sexual violence: that cases of sexual assault are not a priority. Unfortunately, because our Nation lacks any mechanism to track rape kit backlogs, we have no way of knowing the full scope of this rape kit backlog and the national tragedy that it causes.

The Justice for Survivors of Sexual Assault Act of 2009, which I am introducing today with Senator GRASSLEY, Senator FEINSTEIN, and Senator HATCH, addresses the national rape kit backlog and several other problems that work to deny justice to survivors of sexual assault. These include the denial of free rape kits to survivors of sexual assault, and the shortage of trained health professionals capable of administering rape kit exams.

First, this bill will create strong financial incentives for states to clear their rape kit backlogs once and for all. This bill will reward states who make progress in clearing up their rape kit backlog and start processing their incoming rape kits in a timely manner. It will penalize those that don't, while allowing them the opportunity to regain any lost funds. Having a backlog is not an impossible situation to remedy. In just a few years, the city of New York cleaned up their rape kit backlog, and as a result, saw its arrest rate for rapes jump from 40 to 70 percent.

Second, this bill will put measures in place to track progress and hold States and localities accountable. Law enforcement agencies will be responsible for reporting their reductions of rape kit backlogs, and the Department of Justice will be responsible for analyzing that data and reporting back to Congress.

Third, this bill will guarantee that survivors of sexual assault don't ever pay for their rape kits. Right now, States must cover the full cost of a rape kit examination, either upfront or through reimbursement. But some states don't even cover half of the cost. Survivors who live in States who are in compliance with the law still mistakenly receive bills because of the confusing nature of the reimbursement process. We don't bill criminals for fingerprint processing. Survivors of sexual assault should never see the bill for their rape kit exam, let alone pay any upfront costs.

Fourth, this bill will train more health professionals to administer rape kit exams. If survivors of sexual assault are lucky enough to have their rape kit processed, it is important to ensure it is not declared inadmissible in court due to faulty evidence collection.

Lastly, this bill will provide funds for a study on the availability of trained health professionals to administer rape kit exams at Indian Health Services facilities. Recent studies have shown that Native American women suffer a disproportionately high amount of sexual violence, and we need to make sure that IHS has the proper resources it needs to serve survivors.

We have waited too long to address the rape kit backlog in the United States to the detriment of survivors and our communities. It is time to aggressively clear rape kit backlogs and put rapists where they belong: off our streets and behind bars. With the Federal Government beginning to collect more DNA samples from convicted, non-violent offenders and dozens of State governments following its lead inaction now would mean that rape kits wait longer on the shelf, rape survivors wait longer for justice, and rapists spend more time on the streets.

Survivors of sexual assault do not deserve this. They deserve justice. I want to continue Congress's work in trying to address this issue. In doing so, I follow in the footsteps of people like Vice President BIDEN and Chairman LEAHY, who have consistently and powerfully championed sexual assault survivors within the Senate Judiciary Committee and on the floor of the Senate.

I ask that my colleagues join Senator GRASSLEY, Senator FEINSTEIN, Senator HATCH, and me in supporting the Justice for Survivors of Sexual Assault Act of 2009.

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. 2736

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 ''Justice for Survivors of Sexual Assault Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Rape is a serious problem in the United States.

(2) The Department of Justice reports that in 2006, there were an estimated 261,000 rapes and sexual assaults, and studies show only ⅓ of rapes are reported.

(3) The collection and testing of DNA evidence is a critical tool in solving rape cases. Law enforcement officials using the Combined DNA Index System have matched unknown DNA evidence taken from crime scenes with known offender DNA profiles in the State and National DNA database 2,371 times.

(4) Despite the availability of funding under the amendments made by the Debbie Smith Act of 2004 (title II of Public Law 108–405; 118 Stat. 2266) there exists a significant rape kit backlog in the United States.

(5) A 1999 study commissioned by the National Institute of Justice estimated that there was an annual backlog of 180,000 rape kits that had not been analyzed.

(6) No agency regularly collects information regarding the scope of the rape kit backlog in the United States.

(7) Certain States cap reimbursement for rape kits at levels that are less than ½ the average cost of a rape kit in those States. Yet, section 2010 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) requires that in order to be eligible for grants under part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) (commonly known as ''STOP Grants'') States shall administer rape kits to survivors free of charge or provide full reimbursement.

(8) There is a lack of sexual assault nurse examiners and health professionals who have received specialized training specific to sexual assault victims.

SEC. 3. PURPOSE.

The purpose of this Act is to seek appropriate means to address the problems surrounding forensic evidence collection in cases of sexual assault, including rape kit backlogs, reimbursement for or free provision of rape kits, and the availability of trained health professionals to administer rape kit examinations.

SEC. 4. RAPE KIT BACKLOGS.

(a) ADDITIONAL PROTOCOL REQUIREMENT FOR RECEIVING EDWARD BYRNE GRANTS.—Section 502 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3752) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

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

''(5) A certification that the applicant has implemented a policy requiring all rape kits collected by or on behalf of the applicant to be sent to crime laboratories for forensic analysis.''.

(b) ADDITIONAL DEBBIE SMITH GRANT REQUIREMENTS; DEFINITIONS.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)(2), by striking ''samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect.'' and inserting ''to eliminate a rape kit backlog and to ensure that DNA analyses of samples from rape kits are carried out in a timely manner.'';

(2) in subsection (b)—

(A) paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(8) if the State or unit of local government has a rape kit backlog, include a plan to eliminate the rape kit backlog that includes performance measures to assess progress of the State or local unit of government toward a 50 percent reduction in the rape kit backlog over a 2-year period; and

''(9) specify the portion of the amounts made available under the grant under this section that the State or unit of local government shall use for the purpose of DNA analyses of samples from untested rape kits.'';

(3) in subsection (f)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

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

''(2) the amount of funds from a grant under this section expended for the purposes of DNA analyses for untested rape kits; and''; and

(4) by striking subsection (i) and inserting the following:

''(i) DEFINITIONS.—In this section:

''(1) RAPE KIT.—The term 'rape kit' means DNA evidence relating to—

''(A) sexual assault (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a))); or

''(B) conduct described in section 2251, 2251A, or 2252 of chapter 110 of title 18, United States Code, regardless of whether the conduct affects interstate commerce.

''(2) RAPE KIT BACKLOG.—The term 'rape kit backlog' means untested rape kits that are in the possession or control of—

''(A) a law enforcement agency; or

''(B) a public or private crime laboratory.

''(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

''(4) UNTESTED RAPE KIT.—The term 'untested rape kit' means a rape kit collected from a victim that—

''(A) has not undergone forensic analysis; and

''(B) for a combined total of not less than 60 days, has been in the possession or control of—

''(i) a law enforcement agency; or

''(ii) a public or private crime laboratory.''.

(c) ADJUSTING BYRNE GRANT FUNDS FOR COMPLIANCE AND NONCOMPLIANCE; STATISTICAL REVIEW.—Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following:

''(i) ADJUSTING BYRNE GRANT FUNDS FOR COMPLIANCE AND NONCOMPLIANCE.—

''(1) DEFINITION.—In this subsection the term 'date for implementation' means the last day of the second fiscal year beginning after the date of enactment of this subsection.

''(2) ADDITIONAL FUNDS FOR COMPLIANCE.—

''(A) REDUCTION OF RAPE KIT BACKLOG.—

''(i) 50 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection, a State or unit of local government shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 50 percent, as compared to the date of enactment of this subsection.

''(ii) 75 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection—

''(I) a State or unit of local government that has received additional funds under clause (i) in any previous fiscal year shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection; and

''(II) a State or unit of local government that has not received additional funds under clause (i) in any previous fiscal year shall receive an allocation under this section in an amount equal to 120 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection.

''(iii) 95 PERCENT REDUCTION.—For any fiscal year beginning after the date of enactment of this subsection—

''(I) a State or unit of local government that has received additional funds under clause (ii) in any previous fiscal year shall receive an allocation under this section in an amount equal to 110 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection;

''(II) a State or unit of local government that has received additional funds under clause (i) in any previous fiscal year, and has not received additional funds under clause (ii) in any previous fiscal year, shall receive an allocation under this section in an amount equal to 120 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection; and

''(III) a State or unit of local government that has not received additional funds under clause (i) or (ii) in any previous fiscal year shall receive an allocation under this section in an amount equal to 130 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government reduced the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection.

''(B) TIMELY PROCESSING.—For the first fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, a State or unit of local government that, during the previous fiscal year, tested 95 percent of all rape kits collected from a victim during that previous fiscal year not later than 60 days after the date the rape kit was taken into the possession or control of a law enforcement agency of the State or unit of local government shall receive an allocation under this section in an amount equal to 105 percent of the otherwise applicable allocation to the State or unit of local government.

''(3) WITHHOLDING OF GRANT FUNDS FOR NONCOMPLIANCE.—

''(A) FAILURE TO REDUCE RAPE KIT BACKLOG.—

''(i) YEAR 1.—For the first fiscal year after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal

to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

''(I) has a rape kit backlog;

''(II) received a grant under this subpart during each of the 2 previous fiscal years; and

''(III) has failed to reduce the rape kit backlog by not less than 50 percent, as compared to the date of enactment of this subsection.

''(ii) YEAR 3.—For the third fiscal year beginning after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

''(I) has a rape kit backlog;

''(II) received a grant under this subpart during the previous fiscal year; and

''(III) has failed to reduce the rape kit backlog by not less than 75 percent, as compared to the date of enactment of this subsection.

''(iii) YEARS 5, 7, AND 9.—For each of the fifth, seventh, and ninth fiscal years beginning after the date for implementation, a State or unit of local government shall receive an allocation under this section in an amount equal to 90 percent of the otherwise applicable allocation to the State or unit of local government if the State or unit of local government—

''(I) has a rape kit backlog;

''(II) received a grant under this subpart during the previous fiscal year; and

''(III) has failed to reduce the rape kit backlog by not less than 95 percent, as compared to the date of enactment of this subsection.

''(B) TIMELY PROCESSING.—For the second fiscal year beginning after the date for implementation, and each fiscal year thereafter, a State or unit of local government that, during the previous fiscal year, tested less than 95 percent of the rape kits collected from a victim during that previous fiscal year not later than 90 days after the date the rape kit was taken into the possession or control of a law enforcement agency of the State or unit of local government shall receive an allocation under this section in an amount equal to 95 percent of the otherwise applicable allocation to the State or unit of local government.

''(j) ANNUAL STATISTICAL REVIEW AND REPORT.—

''(1) IN GENERAL.—The Director of the National Institute of Justice of the Department of Justice (in this subsection referred to as the 'Director') shall conduct an annual comprehensive statistical review of the number of untested rape kits collected by Federal, State, local, and tribal law enforcement agencies.

''(2) REPORT OF DATA TO DIRECTOR.—Each law enforcement agency of the Federal Government or of a State or unit of local government receiving a grant under this subpart (in this subsection referred to as a 'covered law enforcement agency') shall record and report to the Director the number of untested rape kits administered by or on behalf of, or in the possession or control of, the covered law enforcement agency at the end of each fiscal year.

''(3) REPORT TO CONGRESS AND THE STATES.—

''(A) INITIAL REPORT.—Not later than 2 years after the date of enactment of this subsection, and annually thereafter, the Director shall submit to Congress and the States a report regarding the number of untested rape kits administered by or on behalf of, or in the possession of, a covered law enforcement agency.

''(B) SUBSEQUENT ANNUAL REPORTS.—The Director shall include, in the second report, under subparagraph (A), and each subsequent report, the percentage change in the number of untested rape kits for each covered law enforcement agency, as compared to the previous year.

''(4) PENALTY.—For fiscal year 2011, and each fiscal year thereafter, if a State or unit of local government has received a grant under this subpart, and a covered law enforcement agency of the State or local government has failed to report the data required under paragraph (2), the State or unit of local government shall receive an allocation under this section in an amount equal to 95 percent of the otherwise applicable allocation to the State or unit of local government.

''(k) DEFINITIONS.—In this section:

''(1) RAPE KIT.—The term 'rape kit' means DNA evidence relating to—

''(A) sexual assault (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a))); or

''(B) conduct described in section 2251, 2251A, or 2252 of chapter 110 of title 18, United States Code, regardless of whether the conduct affects interstate commerce.

''(2) RAPE KIT BACKLOG.—The term 'rape kit backlog' means untested rape kits that are in the possession or control of—

''(A) a law enforcement agency; or

''(B) a public or private crime laboratory.

''(3) UNTESTED RAPE KIT.—The term 'untested rape kit' means a rape kit collected from a victim that—

''(A) has not undergone forensic analysis; and

''(B) for a combined total not less than 60 days, has been in the possession or control of—

''(i) a law enforcement agency; or

''(ii) a public or private crime laboratory.''.

SEC. 5. RAPE KIT BILLING.

(a) COORDINATION WITH REGIONAL HEALTH CARE PROVIDERS.—Section 2010(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4(a)(1)) is amended by striking ''assault.'' and inserting ''assault and coordinates with regional health care providers to notify victims of sexual assault of the availability of rape exams at no cost to the victims.''.

(b) REPEAL OF REIMBURSEMENT OPTION.—Effective 2 years after the date of enactment of this Act, section 2010(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4(b)) is amended—

(1) by striking paragraph (3);

(2) in paragraph (1), by inserting ''or'' after ''victim;''; and

(3) in paragraph (2), by striking ''victims; or'' and inserting ''victims.''.

(c) PROVISION OF RAPE KITS REGARDLESS OF COOPERATION WITH LAW ENFORCEMENT.—Section 2010(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4(d)) is amended by striking ''(d) RULE OF CONSTRUCTION'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) NONCOOPERATION.—

''(1) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be in compliance with this section unless the State, Indian tribal government, or unit of local government complies with subsection (b) without regard to whether the victim cooperates with the law enforcement agency investigating the offense.''.

SEC. 6. SEXUAL ASSAULT NURSE EXAMINER TRAINING.

(a) DEFINITION.—Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)) is amended—

(1) by redesignating paragraphs (29) through (37) as paragraphs (30) through (38), respectively; and

(2) inserting after paragraph (28) the following:

''(29) TRAINED EXAMINER.—The term 'trained examiner' means a health care professional who has received specialized training specific to sexual assault victims, including training regarding gathering forensic evidence and medical needs.''.

(b) ADDITIONAL PERSONNEL.—Section 2101(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended by adding at the end the following:

''(14) To provide for sexual assault forensic medical personnel examiners to collect and preserve evidence, provide expert testimony, and provide treatment of trauma relating to sexual assault.''.

SEC. 7. SEXUAL ASSAULT NURSE AVAILABILITY AT INDIAN HEALTH SERVICES STUDY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the availability of sexual assault nurse examiners and trained examiners (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), as amended by this Act), at all Indian Health Service facilities operated pursuant to contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary and to the Committee on Indian Affairs of the Senate and to the Committee on the Judiciary and the Committee on Natural Resources of the House of Representatives a report containing the findings of the study conducted under subsection (a), and recommendations for improving the availability of sexual assault nurse examiners and trained examiners (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), as amended by this Act).

By Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. KYL, Mr. CORNYN, Mr. LIEBERMAN, Mr. VITTER, and Mr. BUNNING):

S. 2737. A bill to relocate to Jerusalem the United States Embassy in Israel, and for other purposes; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Jerusalem Embassy Relocation Act of 2009. My colleagues and I have sponsored this important piece of legislation in order to pave the way for the United States to correct a longstanding and—I believe—dangerous deficiency in our diplomatic relations and foreign policy. For too long, our embassy in Israel has been located in a different city than Jerusalem, which is the capital of Israel according to longstanding Israeli and American law and practice. The time has come to remove the barriers that have encouraged this state of affairs to continue, and that is precisely what this legislation will do, by repealing the waiver included in the Jerusalem Embassy Act of 1995 that has

been abused by the Executive Branch for 14 years.

Jerusalem is the spiritual center of the Jewish faith. First conquered by King David more than 3000 years ago, there has always been a Jewish presence there, a fact attested to by incalculable archaeological evidence. Although at various times the Jewish people lost sovereignty in the land of Israel—to the Babylonians, Greeks, Romans, Byzantines, Ottomans, British—Jerusalem has never served as the capital of any other political or religious entity in history. In every year during the nearly two thousand year exile in 70 A.D., Jews around the world concluded their Passover seder with the phrase, ''Next Year in Jerusalem.'' Despite the depths of despair to which the Jewish people descended throughout their long exile, Jerusalem always remained at the center of Jewish religious life.

Since 1950, just two years after the miraculous rebirth of the State of Israel, Jerusalem has served as Israel's capital. The seat of Parliament, Prime Minister's residence, and Supreme Court, all reside there, in addition to numerous ministries and government buildings. American officials conduct business with Israeli officials in Jerusalem, in de facto recognition of the status of the city. The Jerusalem Embassy Act of 1995, passed into law by an overwhelming vote of Congress, stated unequivocally as a matter of United States policy that ''Jerusalem should be recognized as the capital of the State of Israel,'' and ''the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

This is our policy, yet for some reason our embassy remains in Tel Aviv. This is despite the fact that the government of Israel many times has declared Jerusalem to be the eternal and undivided capital of Israel, a policy reflected in American law. Such a state of affairs constitutes an ongoing affront to the people of Israel who, under international law, have the sovereign right to choose the location of their capital. It also harms the interests of American citizens living in Israel, who face procedural and substantive harm as a result of the confusing diplomatic structure that has arisen in place of a Jerusalem embassy.

The failure of the State Department to relocate the embassy is not only inconvenient and inefficient, but also is dangerous. The State Department's refusal to acknowledge clear U.S. law and policy radicalizes Israel's opponents by creating the false hope that the U.S. would support the division of Jerusalem. Were the embassy to be moved to Jerusalem, and Israel's capital respected in both American law and in practice, then Palestinians and Arab governments would have no choice but to accept the unchanging reality of Jerusalem, which is that Israel, regardless of the political party or government in power, will not move its capital away from this city.

I and my fellow sponsors of this legislation recognize that the Executive Branch generally has discretion over diplomatic arrangements. However, when a waiver included for the limited purpose of national security becomes perfunctory and contradicts the clear will of the Congress, the time has come to reevaluate the wisdom of such a waiver. This bill simply restores the statutory effect of the Jerusalem Embassy Act, updating the timeline of fiscal years required for action, but without the waiver.

I urge my colleagues to support this necessary and appropriate legislation.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. 2738. A bill to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, I rise today to speak about the National Liberty Memorial Act, a bill I am introducing with my colleague Senator GRASSLEY. This important legislation would authorize the construction of a memorial in Washington, DC honoring the African American patriots who fought in the Revolutionary War.

For too long, the role these brave Americans played in the founding of our Nation has been relegated to the dusty back pages of history. Fortunately, historians are now beginning to uncover their forgotten heroism, and they estimate that more than 5,000 slaves and free blacks fought in the army, navy, and militia during the Revolutionary War. They served and struggled in major battles from Lexington and Concord to Yorktown, fighting side by side with white soldiers. More than 400 of these brave Americans hailed from my home state of Connecticut.

More than 20 years ago, Congress authorized a memorial to black Revolutionary War soldiers and sailors, those who provided civilian assistance, and the many slaves who fled slavery or filed petitions to courts or legislatures for their freedom. Unfortunately, the group originally authorized to raise funds for and build the memorial was unable to conclude its task, and there remains no memorial to the important, and too often unacknowledged, contributions made by these 5,000 Americans.

But a group of committed citizens has formed the Liberty Fund DC to complete this memorial and ensure that these patriots receive the tribute they deserve here in our Nation's capital. I am honored to work alongside them in completing this mission.

The time has come to recognize the sacrifice and the impact of the African Americans who fought for the birth of our country. I urge my colleagues to support the National Liberty Memorial Act.

By Mr. UDALL, of New Mexico:

S. 2741. A bill to establish telehealth pilot projects, expand access to stroke telehealth services under the Medicare program, improve access to ''store-and-forward'' telehealth services in facilities of the Indian Health Service and Federally qualified health centers, reimburse facilities of the Indian Health Service as originating sites, establish regulations to consider credentialing and privileging standards for originating sites with respect to receiving telehealth services, and for other purposes; to the Committee on Finance.

Mr. UDALL of New Mexico. Mr. President, access to quality, affordable health care is an issue that impacts every American across our country. Whether someone is struggling to find coverage for themselves or their family members, or searching in vain for a doctor who is accepting new patients, or giving advice to a friend who has just lost his job and, and as a result, his health insurance, no American is spared.

These problems hit particularly hard in America's rural communities. Residents there are more likely to be uninsured than their urban counterparts, have higher rates of chronic disease, and are often forced to travel hundreds of miles for preventive or emergency care, if they can find it at all.

As we continue moving forward with health care reform, we must make sure we do not leave our rural communities behind. In my home State of New Mexico, for example, 30 of our 33 counties are designated as medically underserved. That is why I am please to introduce the Rural TECH Act of 2009, Rural Telemedicine Enhancing Community Health. Through this legislation, I propose that we use technology to connect experts with providers, facilities and patients in rural areas, and to extend critical health care services to underserved areas across the country.

Telehealth technology can help diagnose and treat patients, provide education and training, and conduct community-based research. It uses videoconferencing, the Internet, and handheld mobile devices to provide consultation and case reviews, direct patient care and coordinate support groups, for example. There are many benefits with telehealth, including increased access to education and care, such as connecting remote generalists to urban specialists. This knowledge bridge will help remote areas retain health care providers, and improve the continuity of care. it also would allow patients to stay in their homes and communities, rather than spend precious time and money to travel for treatment and care. In New Mexico, Dr. Steve Adelsheim at the University of New Mexico has been using telehealth during the past few months to provide therapy to a Navajo teenager who is at high risk of suicide.

My bill would create three telehealth pilot projects, expand access to stroke telehealth services, and improve access to ''store-and-forward'' telehealth services in Indian Health Service, IHS, and Federally Qualified Health Centers, FQHCs. I'd like to tell you a bit about each today.

First, the creation of three telehealth pilot projects. These projects would analyze tie clinical heath outcomes and cost-effectiveness of telehealth systems in medically underserved and tribal areas. The first pilot project focuses on using telehealth for behavioral health interventions, such as post traumatic stress disorder. A second pilot project focuses on increasing the capacity of health care workers to provide health services in rural areas, using knowledge networks like New Mexico's Project ECHO. And lastly, I am proposing a pilot project for stroke rehabilitation using telehealth technology.

Second, we will expand access to telehealth services for strokes, a leading cause of death and long-term disability. Travel time to hospitals and shortages of neurologists—especially in rural areas—are among the barriers to stroke treatment. However, Primary Stroke Centers are not accessible for much of the population. For example, there is only one certified Primary Stroke Center in my State, at the University of New Mexico Hospital. This bill would connect many more residents with needed services. In New Mexico alone, there are almost 173,000 Medicare beneficiaries who would gain access to telestroke services.

Third, we will improve access to store-and-forward telehealth services. These services allow rural health facilities to hold and share transmission of medical training, diagnostic information and other data, which is important for remote areas. This bill also would allow IHS facilities to be reimbursed as users of telehealth services. Finally, it would establish regulations for credentialing and privileging telehealth providers at rural sites, saving important resources and time as they accept telehealth services from an area of specialty.

I am pleased to note that my bill is supported by the University of New Mexico Center for Telehealth and Cybermedicine Research, the American Telemedicine Association, and the Telehealth Leadership Initiative. In addition, it is supported by the New Mexico Stroke Advisory Committee, the American Heart Association/American Stroke Association, the American Academy of Neurology, the American Physical Therapy Association, the American Occupational Therapy Association, and the American Speech-Language-Hearing Association. I want to thank each of these groups for their support and encouragement.

By Ms. SNOWE (for herself, Mr. WEBB, Mrs. LINCOLN, and Ms. LANDRIEU):

S. 2743. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President, I rise today with my colleagues Senator WEBB, Senator LINCOLN, and Senator LANDRIEU to introduce the Cold War Medal Act of 2009. This legislation would provide the authority for the secretaries of the military departments to award Cold War Service Medals to the courageous American patriots who for nearly half-a-century defended the Nation, and indeed, freedom-loving peoples throughout the world, against the advance of communist ideology.

From the end of World War II to dissolution of the Soviet Union in 1991, the Cold War veterans were in the vanguard of this Nation's defenses. They manned the missile silos, ships, and aircraft, on ready alert status or on far off patrols, or demonstrated their resolve in hundreds of exercises and operations worldwide. The commitment, motivation, and fortitude of the Cold War Veterans was second to none.

Astonishingly, no medal exists to recognize the dedication of our patriots who so nobly stood watch in the cause of promoting world peace. Although there have been instances where medals or ribbons, such as the Armed Forces Expeditionary Medal, Korean Defense Service Medal, and Vietnam Service Medal, have been issued, the vast majority of Cold War Veterans did not receive any medal to pay tribute to their dedication and patriotism during this extraordinary period in American history. It is only fitting that these brave servicemembers who served honorably during this era receive the recognition for their efforts in the form of the Cold War Service Medal.

Specifically, the Cold War Service Medal Act of 2009 would allow the Defense Department to issue a Cold War Service Medal to any honorably discharged veteran who served on active duty for not less than two years or was deployed for thirty days or more during the period from September 2, 1945, to December 26, 1991. In the case of those veterans who are now deceased, the medal could be issued to their family or representative, as determined by the Defense Department. The bill would also express the sense of Congress that the secretary of Defense should expedite the design of the medal and expedite the establishment and implementation mechanisms to facilitate the issuance of the Cold War Service Medal.

The award of the Cold War Service Medal is supported by the American Cold War Veterans, the American Legion, the Veterans of Foreign Wars, and many other veterans' services organizations.

With November 9, 2009, the 20th anniversary of the fall of the Berlin Wall which marked the beginning of the end of the Cold War, quickly approaching, Senator WEBB, Senator LINCOLN, Senator LANDRIEU, and I invite our colleagues to cosponsor this significant legislation to honor our Cold War Veterans.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 338—DESIGNATING NOVEMBER 14, 2009, AS ''NATIONAL READING EDUCATION ASSISTANCE DOGS DAY''

Mr. HATCH (for himself, Mr. BINGAMAN, Mrs. MCCASKILL, Mr. COCHRAN, and Mr. RISCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 338

Whereas reading provides children with an essential foundation for all future learning;

Whereas the Reading Education Assistance Dogs (R.E.A.D.) program was founded in November of 1999 to improve the literacy skills of children through the mentoring assistance of trained, registered, and insured pet partner reading volunteer teams;

Whereas children who participate in the R.E.A.D. program make significant improvements in fluency, comprehension, confidence, and many additional academic and social dimensions;

Whereas the R.E.A.D. program now has an active presence in 49 States, 3 provinces in Canada, Europe, Asia, and beyond with more than 2,400 trained and registered volunteer teams participating and influencing thousands of children in classrooms and libraries across the Nation;

Whereas the program has received awards and recognition from distinguished entities including the International Reading Association, the Delta Society, the Latham Foundation, the American Library Association, and PBS Television; and

Whereas the program has garnered enthusiastic coverage from national media, including major television networks NBC, CBS, and ABC, as well as international television and print coverage: Now, therefore, be it

Resolved, That the Senate, in honor of the 10th anniversary of the R.E.A.D. program, designates November 14, 2009, as ''National Reading Education Assistance Dogs Day''.

Mr. HATCH. Mr. President, I rise today to submit a resolution regarding the 10th Anniversary of the Reading Education Assistance Dogs, R.E.A.D., program by designating November 14, 2009, as ''National Reading Assistance Dogs Day.'' This is a nationwide program promoted by a number of organizations throughout the U.S. and even throughout countries around the world as an innovative, successful approach aimed at assisting some of our nation's most vulnerable citizens, our children, learn how to read.

The R.E.A.D. program was the first literacy program in the country to use therapy animals as reading companions for children. This unique method provides children an opportunity to improve their reading skills in a comfortable environment by reading aloud to dogs. After 10 years of results, the program has proven to be incredibly successful in helping children who are struggling with this most-crucial and

basic of skills. Simply put, this is a program that fills a vital place in the spectrum of a child's literary education and with over 2,400 voluntary therapy teams around the world, it would be an understatement to say this program has not touched and improved thousands of young lives.

Over the span of the previous 10 years, this is an achievement that is virtually impossible to measure, yet today, as small token of my own personal appreciation, I submit a resolution that would designate Saturday, November 14, 2009, as National Reading Education Assistance Dogs Day. Once agreed to, this resolution will recognize the thousands of lives that have been touched as a direct result of this initiative. I am grateful to be the sponsor of a resolution recognizing such an accomplishment and am joined by Senators BINGAMAN, MCCASKILL, COCHRAN, and RISCH in this effort. I commend Intermountain Therapy Animals, a nonprofit organization based in Utah, for first launching this program just ten short years ago. Therefore, in addition to the numerous news stories, television programs, and awards highlighting the value and benefit of this program, I urge my Senate colleagues and every American to join me in recognizing 10 successful years of the R.E.A.D. program with hopes of many more years of success to come.

SENATE RESOLUTION 339—TO EXPRESS THE SENSE OF THE SENATE IN SUPPORT OF PERMITTING THE TELEVISING OF SUPREME COURT PROCEEDINGS

Mr. SPECTER (for himself, Mr. KAUFMAN, Mr. CORNYN, Mr. FEINGOLD, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that the Supreme Court should permit live television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.

Mr. SPECTER. Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit live television coverage of its open proceedings. This is different from previous legislation which I have introduced which would require the Court to permit live television coverage.

I offer this resolution on behalf of Senator CORNYN, Senator KAUFMAN, Senator FEINGOLD, Senator DURBIN, Senator KLOBUCHAR, Senator WHITEHOUSE, and Senator SCHUMER.

The previous bills, which would have required the Supreme Court to open its proceedings to live television coverage, were voted out of the Judiciary Committee in the 109th Congress by a vote of 12 to 6 and the 110th Congress by a vote of 11 to 8.

The basis for the legislative action is on the recognized authority of Congress to establish administrative matters for the Court. For example, the Congress determines how many Justices there will be—nine; the Congress determines how many Justices are required for a quorum—six; the Congress determines that the Court will begin its operation on the first day of October; the Congress has set time limits.

The shift in the resolution for urging the Court is to take a milder approach to avoid a confrontation and to avoid a possible constitutional clash on the separation of powers.

There is no doubt that the Court would have the last word if the Congress required live television coverage. And, as I say, there are analogous administrative matters which the Congress does control. But as a first step, today the resolution urges the Court to open its proceedings for live television coverage.

The thrust of this resolution is that the Court should be televised, just as the Senate is televised, just as the House is televised, to familiarize the American people with what the Court does. The average person knows very little about what the Court does.

The Supreme Court itself has held that newspapers have a right to be in a courtroom. In an electronic age, television and radio ought to have the same standing.

The importance of the Court is seen in the scope of the cases which they decide and the kinds of cases which they do not decide. For example, the Court makes a determination on life, a woman's right to choose, makes a determination on the application of the death penalty, a determination on civil rights, on Guantanamo, on wireless wiretapping, on congressional authority, on Executive authority.

The Court is the final word since 1803, in the case of Marbury v. Madison, when the Court decided the Court would be the final word. That was the statement of Chief Justice Marshall, and it has stood for the life of our country. I believe it is a sound judgment for the Supreme Court to have the final word. But if the Framers were to rewrite the Constitution, I think the Court would now be article I instead of the Congress being article I, and the executive branch—the President—being article II.

It is also important to note what the Court does not decide. The Court declined to hear the terrorist surveillance program. That warrantless wiretap program was found unconstitutional by the Federal court in Detroit. It was reversed by the Sixth Circuit Court of Appeals on standing ground, with a very vigorous and better reasoned dissent. Standing is a very flexible doctrine and usually made when the Court simply doesn't want to take up the issue. But the terrorist surveillance program presented the sharpest conflict—perhaps the sharpest conflict between congressional authority, under article I, with the Foreign Intelligence Surveillance Act establishing the exclusive way to conduct wiretaps and the President's article II powers as Commander in Chief to conduct warrantless wiretaps.

The Supreme Court denied hearing the case of the survivors of victims of 9/11 against Saudi Arabia, even though congressional mandate is clear that sovereign immunity does not apply to foreign government officials.

Just in the past few years, the Supreme Court has decided cases of enormous importance. A few illustrate the proposition: The Court did decide cutting-edge issues on whether local school districts may fulfill the promise of Brown v. Board of Education by taking voluntary remedial steps to maintain integrated schools; whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies; whether citizens have a constitutional right to own guns; whether States may exercise the power of eminent domain to take a personal residence in order to make room for commercial development.

The Court has also declined to hear cases involving splits—that is, differences of judgment—between different courts of appeals. It is not an effective administration of the judicial system if the case may be decided differently depending on whether a person litigates in the First Circuit or in the Eleventh Circuit and then the district courts, where the circuit has not ruled, speculate as to what the court of appeals would have decided.

We had a confirmation hearing yesterday with Judge Vanaskie of the Middle District of Pennsylvania. I asked him if he had seen situations where there were circuit splits, but your circuit hasn't decided, and how do you handle that case. Judge Vanaskie pointed out that was very problematic. There are major matters where the Supreme Court has left these circuit splits standing. For example, whether jurors may consult the Bible during their deliberations in a criminal case, whether a civil lawsuit must be dismissed predicated on state secret, whether the spouse of a U.S. citizen remains eligible for an immigration visa after the citizen dies, whether an employee who alleges that he or she was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored health care or pension plan, or when does a collective bargaining agreement confer on retirees the right to lifetime health care benefits? may a Federal court toll the statute of limitations in a suit brought under the Federal Tort Claims Act?

These are illustrative of very important decisions which the Supreme Court does not decide. Congress can't

tell the Supreme Court what to decide, but Congress may mandate the Court's jurisdiction. If this were in the public view, if the Court were accountable for not handling such cases, I think the Court might well take a different view.

It is not as if the Court is too busy to hear these cases. Take a brief survey of the Court's docket. In 1886, there were 1,396 cases on the Supreme Court docket. It decided 451. In 1926, there were 223 signed opinions. So it was down from 451 in 1886 to 223 in 1926. Then by 1987, it was down to 146. In 2007, the Court heard argument in only 75 cases and issued only 67 signed opinions. So it is perfectly clear that the Court's docket, with the four clerks—which each one of the Supreme Court Justices has—could well accommodate a more vigorous workload.

In the written statement that I will include when I finish these extemporaneous remarks, I have cited several recent cases where the Court has not followed well-established precedent. Well, they have the authority to overrule their own precedents, but it is something the public ought to have an idea on and an understanding of.

I think this is a particularly good time for the Court to consider televising itself under the resolution urging them to be televised since Justice Souter recently left the Court. Justice Souter made the famous statement that if the Supreme Court were to be televised, the cameras would roll in over his dead body. The members of the Supreme Court are very concerned about what their fellows think, and it may well have been that in light of a strenuous objection by Justice Souter, when he was on the Court, that would have tipped the scales. But listen to what the Justices have had to say on the issue of televising the Supreme Court.

I have made it a practice to question the nominees for the Supreme Court to get their views on television. Justice Paul Stevens said: Literally hundreds of people have stood in line for hours in order to hear oral argument only to be denied admission because the courtroom was filled.

The practice is, if you can get in at all, you stay for 3 minutes and then you are ushered out to let other people in because it is a small chamber.

Justice John Paul Stevens said: Television in the Court is worth a try.

Justice Ruth Bader Ginsburg said: I don't see any problem with having proceedings televised. I think it would be good for the public.

Justice Breyer said—at a time when he was chief judge of the First Circuit—I voted in the judicial conference in favor of experimenting with television in the courtroom. The judicial conference made an analysis of television—made a favorable recommendation—and some circuit courts and some lower courts have been televised.

Justice Sotomayor, in her recent confirmation hearing, said, referring to her experience with cameras in the courtroom, that the experience has ''generally been positive, and I would certainly recount that,'' referring to her colleagues on the Supreme Court.

Justice Alito said, in the Third Circuit, there was a debate and he argued we should do it; that is, televise it. He said: I would keep an open mind on the subject with respect to the Supreme Court.

The fact is the Justices frequently appear on television on their own. For example, Chief Justice Roberts and Justice Stevens appeared on interviews on ABC's ''Prime Time.'' Justice Ginsburg has appeared on CBS News. Justice Breyer has been on ''FOX News Sunday.'' Justices Scalia and Thomas have appeared on CBS's ''60 Minutes.'' All the Justices appeared for interviews that C–SPAN recently aired during its ''Supreme Court Week.''

Public opinion polls are strongly in favor of having the Supreme Court televised. There have been numerous editorials in support, and recently the Supreme Court of the United Kingdom opened its proceedings for television.

That is a very brief statement of a more expansive statement, which I have prepared, and I think the reasons for opening the Court are overwhelming. In a Democratic society, there should be transparency at all levels of government. The judicial independence of the Supreme Court is of vital importance to be maintained, and they have life tenure, but there is no reason why the American people should not understand what they are doing.

The American people should understand that when they take a case such as Bush v. Gore, where there is a challenge on the counting of the votes in Florida and where Justice Scalia says there would be irreparable harm in allowing the votes in Florida to be counted because it might undermine the legitimacy of the new administration, the American people ought to have maximum access to understand what the Court is doing. The American people ought to have maximum access to know that the Supreme Court of the United States declined to hear a decision on whether the President had authority to conduct warrantless wiretaps. The American people ought to know that all these circuit splits remain unresolved at a time when the workload and the agenda and the docket of the Supreme Court has declined enormously.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a ''Dear Colleague'' letter signed by Senator CORNYN and myself.

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

UNITED STATES SENATE,
WASHINGTON, DC,
November 5, 2009.

DEAR COLLEAGUE: We write to ask for your co-sponsorship on a Sense of the Senate Resolution which urges the Supreme Court to permit live television coverage of its open proceedings. This would provide a modest level of transparency and accountability to the Supreme Court whose members enjoy life tenure and decide so many cutting-edge issues which border on making the law rather than interpreting the law. There is little public understanding about the Supreme Court's role even though it decides major issues such as a woman's right to choose, the death penalty, civil rights, 2nd Amendment gun rights, and the scope of Congress's Article I power and the President's Article II power.

The Court declines to hear many important cases where conflicting decisions are rendered by different Circuit Courts of Appeals. That results in different treatment for different litigants depending on what Circuit their case is brought. It leaves uncertainty in other Circuits since there is a question about which Circuit precedent should be followed.

The Court has time to resolve Circuit splits and hear many other important cases which it declines since its docket is so light compared to prior years. In 1886, the Supreme Court decided 451 of the 1,309 cases on its docket. In 1926, the Court issued 223 signed opinions. In the first year of the Rehnquist Court, 1987, the Court issued 146 opinions. During the 2007 term, the Court held argument in 75 cases and issued 67 signed opinions.

Few Americans have any real opportunity to observe its proceedings. Most who visit the Court for an oral argument will be allowed only a three-minute seating, if they are seated at all. Recently, the UK's highest court decided to allow TV cameras into its courtroom. A recent C–SPAN poll reveals that two-thirds of Americans support televising the Court's proceedings.

This Sense of the Senate Resolution differs from previous legislative proposals in urging rather than requiring the Supreme Court to permit TV coverage. While there is substantial authority for Congress to require such coverage based on analogous administrative matters, we believe the milder approach should be followed first which may draw a favorable response and would avoid any possible confrontation.

If you have any questions or wish to cosponsor this Resolution, please contact the undersigned or have your staff contact Matthew Wiener (extension 4–6598) or Matthew Johnson (extension 4–7840).

Sincerely,

ARLEN SPECTER,
JOHN CORNYN.

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD an extensive floor statement and that the CONGRESSIONAL RECORD contain my introduction of the floor statement. Frequently, when the floor statement occurs right after the oral extemporaneous comments, the reader may wonder why the speaker is repeating himself on so many of the same points.

So, I would like to have the full text as to what I am saying now appear in the CONGRESSIONAL RECORD so that it is understandable why the long text appears after so much of what has already been said.

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

Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit television coverage of its open proceedings.

I have previously introduced legislation on the subject. In the 109th Congress, I introduced S. 1768, on behalf of myself and Senators Allen, Cornyn, Durbin, Feingold,

Grassley, Leahy, and Schumer. It would have required the Court to permit television coverage of its proceedings. On March 30, 2006, the Committee on the Judiciary favorably reported S. 1768 by a vote of 12 to 6. In the 110th Congress, I introduced an identical bill, S. 344, on behalf of myself and Senators Comyn, Durbin, Feingold, Grassley and Schumer. On September 8, 2008, the Committee favorably reported the bill by a vote of 11 to 8. Early in this Congress I again introduced an identical bill, S. 446, this time on behalf of myself and Senators Cornyn, Durbin, Feingold, Grassley, Kaufman, Klobuchar, and Schumer.

The resolution takes a more restrained and modest approach than does S. 446 and its predecessors. It would do no more than ''urge'' the Court to allow the television coverage of its open proceedings (unless Court decides that television coverage would violate a litigant's due-process rights, which is unlikely).

I urge the Senate to pass this non-binding resolution rather than taking action on S. 446 at this time. My reason is not that S. 446 may be unconstitutional. It is not. Congress' well-founded authority to regulate various aspects of the Court's activities—to fix the number of Justices who sit on the Court (nine) and constitute a quorum (six), to set the beginning of the Court's term as the first Monday in October, and to establish the contours of its appellate jurisdiction—would sustain S. 446 against a constitutional challenge. Rather, I have four prudential reasons for proceeding with a non-binding resolution at this time:

First, the Court's most outspoken critic of television coverage, Justice Souter, has retired. Justice Souter once said that the ''day you see a camera come into our courtroom, it's going to roll over my dead body.'' Several Justices have indicated their reluctance to permit television coverage in the face of opposition by a colleague. Justice Souter's departure may lead his colleagues to revisit the issue. His replacement, Justice Sotomayor, testified during her confirmation hearings that she had favorable experiences with television coverage while sitting on the court of appeals and that, if confirmed, she would share her experiences with her new colleagues. Some commentators have raised the possibility that Justice Sotomayor will help convince her reluctant colleagues that the time for television coverage has come. (E.g., Editorial, ''Cameras in the Court,'' USA Today, July 13, 2009; Editorial, ''Camera shy justice: The Supreme Court should be televised,'' Pittsburgh Post Gazette, July 7, 2009; Editorial, ''Supreme Court TV,'' Los Angeles Times, June 11, 2009.) No one knows, of course, what Justice Sotomayor will do. But we should at least give the newly constituted Court some reasonable period of time to consider the issue.

Second, a non-binding resolution is likely to draw more support among Senators than a statutory mandate, and it need not be passed by the House or signed by the President. There is no reason to enact a law if a resolution will do.

Third, the Court may receive a non-binding resolution more favorably than a statutory mandate. The Court may perceive a mandate as an affront to its constitutional autonomy as a separate branch of government. Justice Kennedy suggested as much during testimony before a Congressional committee. It may even decide to ignore a mandate on the ground that it violates the Constitution's scheme of separation of powers. We need not provoke what might be an unnecessary constitutional challenge.

Fourth, the newly established Supreme Court of the United Kingdom has just decided to allow cameras in its courtroom. A press release announcing the Court's opening reports that ''proceedings will be routinely filmed and made available to broadcasters.'' (Supreme Court of the United Kingdom, Press Release, Oct. 1, 2009.) The press release cites the need for ''transparen[cy]'' and the ''crucial role'' that television can play in ''letting the public see how justice is done'' and ''increase[ing] awareness of the UK's legal system and the impact the law has on people's lives.'' (Ibid.) When the Court held its opening session just a few weeks ago, TV cameras sat ''discretely'' in the corners of the courtroom, according to the BBC. (BBC News, ''Supreme Court hears first appeal,'' http://news.bbc.co.uk/2/hi/uk__news/8289949 .stm.) Hopefully the experience of the United Kingdom's Supreme Court with television coverage will encourage our Supreme Court to follow suit.

My extensive floor statements of January 29, 2007, introducing S. 246, and February 13, 2009, introducing S. 446, set forth compelling reasons for allowing television coverage of the Supreme Court's open proceedings and also explained why S. 445 is constitutional. (Cong. Record, Jan. 29, 2007, S831–34; Cong. Record, Feb. 13, 2009, S2332–36.) I laid out those reasons again on August 5, 2009, when I commented on the state of the Court during the floor debate on now-Justice Sotomayor's nomination. (Cong. Record, Aug. 5, 2009, S880006.) This statement summarizes the key points of and supplements my earlier statements.

My main point was this: The American people have the right to observe the Court's proceedings. But few Americans have any meaningful opportunity to do so. There are well less than a hundred oral arguments per year. Even those who are able to visit the Court are not likely to see an argument in full. Most will be given just three minutes to watch before they are shuffled out to make room for others. In high-profile cases, most visitors will be denied even a three-minute seating. There are not nearly enough seats to accommodate the demand. Those who wish to follow the Court's proceedings must content themselves with reading the voluminous transcripts or listening to audiotapes released at the end of the Court's term. It should come as no surprise that, according to a recent C-SPAN poll, nearly two-third of Americans favor televising the Court's proceedings.

The Court decides too many cutting-edge questions of monumental importance to the American people—not just, as Justice Scalia once suggested in opposing television coverage, disputes between litigants—to deny them a meaningful opportunity to observe its proceedings. Consider just some of the issues the Court has decided in recent years: whether local school districts may fulfill the promise of Brown v. Board of Education by taking voluntary remedial steps to maintain integrated schools (Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701 (2007)); whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies (Grutter v. Bollinger, 539 U.S. 306 (2003), and Gratz v. Bollinger, 539 U.S. 2344 (2003)); whether citizens have a constitutional right to own guns (District of Columbia v. Heller, 128 S. Ct. 2783 (2008)); and whether states may exercise the power of eminent domain to take a personal residence in order to make room for a commercial development (Kelo v. City of New London, 545 U.S. 469 (2005)).

And in 2000, of course, the Supreme Court decided what was perhaps the most important—and certainly the most controversial—question of all: who the next president of the United States would be (Bush v. Gore, 531 U.S. 98 (2000)). Can anyone seriously contend that the American people were not entitled to watch the oral argument in the case that ultimately decided the Presidency? Or that reading a transcript or listening to an audio was an adequate substitute for watching the oral argument?

Trends over the last few years show that the need for public scrutiny of the Court's work, which only television coverage can adequately provide, is now more important than ever. None is more significant than the Court's declining workload and willingness to leave important issues and circuit splits unresolved.

The Court's workload has steadily declined. In 1870, the Court decided 280 of the 636 cases on its docket; in 1880, 365 of the 1,202 cases on its docket; and in 1886, 451 of the 1,396 cases on its docket. (E.g., Edward A. Hartnett, ''Questioning Certiorari: Some Reflects on Seventy Five Years After the Judges Bill,'' 100 Colum. L. Rev. 1643, 1650 (2006).) In 1926, the year Congress gave the Court nearly complete control of its docket by passing the Judiciary Act of 1925, the Court issued 223 signed opinions. The Court's output has declined significantly ever since. In the first year of the Rehnquist Court, the Court issued 146 opinions; in its last year, the Court issued only 74. (E.g., Kenneth W. Starr, ''The Supreme Court and Its Shrinking Docket: The Ghost of William Howard Taft,'' 90 Minnesota Law Review 1363, 1367–68 (2006).)

Chief Justice Rehnquist's successor, John Roberts, said during his confirmation hearing that the Court could and should take more cases. But it has not done so. During the 2005 Term, it heard argument in 87 cases, and issued 69 signed opinions; during the 2006 Term, it heard argument in 78 cases and issued 68 signed opinions; and during the 2007 Term, it heard argument in 75 cases and issued 67 signed opinions. The numbers were much the same during the recently concluded 2008 Term: The Court heard argument in 78 cases and issued 75 signed opinions. A recent article in the Duke Law Journal notes that ''[e]ven though it possess resources unimaginable to its predecessors, including . . . a bevy of talented clerks, the Supreme Court decides only a trickle of cases.'' The article goes on to observe that the ''most striking feature of contemporary Supreme Court jurisprudence is how little of it there is.'' (Tracey E. George & Christopher Guthrie, ''Remaking the United States Supreme Court in the Courts' of Appeals Image,'' 58 Duke Law Journal 1439, 1441–42 (2009).)

As Kenneth Starr has observed, Congress gave the Supreme Court control over what cases it hears so it can focus on ''two broad objectives: (i) to resolve important questions of law and (ii) to maintain uniformity in federal law.'' (Starr, supra, at 1364.) It is clear that the Court has failed to meet either objective and that only by putting its ''shoulder to the wheel and working] harder,'' to quote Mr. Starr, can it ever hope to do so. (Id. at 1385.)

The Court continues to leave important issues unresolved. Recently it even refused to decide the constitutionality of the Bush Administration's Terrorist Surveillance Program—commonly referred to as the ''warrantless wiretapping program.'' This program, which began soon after the 9–11 attacks, operated in secret until The New York Times exposed it in 2005. Well-deserved public condemnation followed its exposure. In 2006, a federal district court declared the program unconstitutional. A divided court of appeals reversed on the ground that the plaintiffs lacked standing to bring suit, thereby leaving the merits unaddressed. In 2008, the plaintiffs asked the Supreme Court to hear case, but it declined. This year I introduced legislation (S. 877) to require the

Court to exercise jurisdiction over appeals challenging the constitutionality of the Program.

More recently, the Court refused to decide whether the Foreign Sovereign Immunities Act shields Saudi Arabia and its officials from damages suits arising from their apparent complicity in the 9–11 terrorist attacks. Last year the United States Court of Appeals for the Second Circuit ruled (incorrectly, in my view) that the Act immunizes them from suit. The victims petitioned the Court for certiorari. In its certiorari-stage brief, the Solicitor General conceded that the Second Circuit had misinterpreted the Act. But late last year the Court denied the petition without dissent and, as usual, without explanation. (In re Terrorist Attacks on September 11, 2001 (No. 08–640).) The result will be to deny legal redress to thousands of 9–11's victims.

No less important, the Court also continues to leave too many circuit splits unresolved. The article in the Duke Law Journal I cited a moment ago notes that the Roberts Court ''is unable to address even half'' of the circuit splits ''identified by litigants.'' (George and Guthrie, supra, at 1449.) Mr. Starr notes that the ''Supreme Court by and large does not even pretend to maintain the uniformity of federal law.'' (Starr, supra, at 1364.) Among the questions on which the circuits have recently split are: May jurors consult the Bible during their deliberations in a criminal case and, if so, under what circumstances? Must a civil lawsuit predicated on a ''state secret'' be dismissed? Does the spouse of a United States citizen remain eligible for an immigrant visa after the citizen dies? Must an employee who alleges that he was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored healthcare or pension plan ''exhaust administrative remedies'' (that is, first allow the plan to address his claim) before filing suit in court? When does a collective bargaining agreement confer on retirees the right to lifetime healthcare benefits? May a federal court ''toll'' the statute of limitations in a suit brought against the federal government under the Federal Tort Claims Act if the plaintiff establishes that the government withheld information on which his claim is based? Is a defendant convicted of drug trafficking with a gun subject to additional prison time under a penalty-enhancing statute, or is his sentence limited to the period of time provided for in the federal drug-trafficking law? When may a federal agency withhold information in response to a FOIA request or court subpoena on the ground that it would disclose the agency's ''internal deliberations.'' Should a federal admiralty claim, to which a jury trial right does not attach, be tried to a jury if it is joined with a non-admiralty claim?

Two developments since I gave my last floor speech have served only to reinforce my conclusion that public scrutiny must be brought to bear on the Court.

The first is the Court's well-documented disregard of precedent, which the Court took to new levels during its 2008 Term. (E.g., Erwin Chemerinsky, ''Forward, Supreme Court Review,'' 43 Tulsa L. Rev. 627 (2008).) Consider three especially significant opinions handed down just this year: (1) 14 Penn Plaza, LLC v. Pyett, which held that an employee can be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he or she did not consent, contrary to the Court's thirty-five-year-old decision in Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974) ; (2) Gross v. FBL Financial Services, Inc. (2009), which held that in age discrimination cases, unlike cases brought under Title VII of the Civil Rights Act of 1964, the employer never bears the burden of proof no matter how compelling a showing of discrimination the plaintiff makes, contrary to the Court's thirty-year-old decision in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989); and (3) Ashcroft v. Iqbal, which gave license to district court judges to evaluate the ''plausibility'' of a complaint's allegations, contrary to well-established rules of pleadings that date back at least fifty years to Conley v. Gibson, 355 U.S. 41 (1957). Legislation to overturn each of these decisions is now pending.

Each of these examples reflects a second recent trend: the Court's bias in favor of corporate interests over the public interest. This has been the subject of extensive commentary. One commentator, Professor Jeffrey Rosen, has characterized the Court as ''Supreme Court, Inc.'' as a result of its decidedly pro-business rulings. (Jeffrey Rosen, ''Supreme Court, Inc.,'' The New York Times, Mar. 16, 2008.) Another, Professor Erwin Chemerinsky, has characterized the current Court as the ''most pro-business Court of any since the mid–1930's.'' (Chemerinsky, ''The Roberts Court at Age Three, 54 Wayne Law Review 947 (2008).)

A final point: While the Justices have so far refused to appear on television during open courtroom proceedings, they have not been shy about appearing on television outside the courtroom. Chief Justice Roberts and Stevens have appeared for interviews on ABC's ''Prime Time,'' Justice Ginsburg on CBS News, Justice Breyer on ''Fox News Sunday,'' and Justices Scalia and Thomas on CBS's ''60 Minutes.'' All of the Justices appeared for interviews that C-SPAN aired recently during its ''Supreme Court Week'' series. Justice Breyer and Auto even appeared on television to debate how the Court should interpret the Constitution and statutes. We cannot accept the Justices' plea for anonymity when they so regularly appear before the camera.

I note in conclusion that, since my last floor speech, the media has continued to call for the televising of the Supreme Court's proceedings. At least a dozen editorials have appeared during 2009 alone. (E.g., ''Televised justice would be for all,'' Boston Herald, August 7, 2009; ''Cameras in the court,'' USA Today, July 13, 2009; ''Camera shy justice: The Supreme Court should be televised,'' Pittsburgh Post Gazette, July 7, 2009; ''Supreme Court TV,'' Los Angeles Times, June 11, 2009.) One editorial writer, The National Law Journal's Tony Mauro, makes the case especially well, when he writes: ''The Internet Age demands transparency from all institutions all the time. Any government body that lags behind is in danger of losing legitimacy, relevance and, at the very least, public awareness. . . . It does not take a battery of surveys to realize that the public will learn and understand more about the Supreme Court . . . if its proceedings are on view nationwide.'' (''Court, cameras, action! Souter's departure could clear the way for far more transparency at the Supreme Court,'' USA Today, May 27, 2009.) A list of 2009 editorials, as compiled by C-SPAN, is appended.

Television coverage of the Supreme Court is long overdue. It is time for Congress to act. I urge my colleagues to support the resolution I am introducing today.

SENATE RESOLUTION 340—EXPRESSING SUPPORT FOR DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK TO ENCOURAGE PUBLIC PARTICIPATION IN A NATIONWIDE PROJECT THAT COLLECTS AND PRESERVES THE STORIES OF THE MEN AND WOMEN WHO SERVED OUR NATION IN TIMES OF WAR AND CONFLICT

Mr. CRAPO (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 340

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas ''National Veterans Awareness Week'' commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes ''National Veterans Awareness Week'';

(2) supports the designation of a ''National Veterans History Project Week'';

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations, along with Federal, State, city, and county governmental institutions, to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

SENATE RESOLUTION 341—SUPPORTING PEACE, SECURITY, AND INNOCENT CIVILIANS AFFECTED BY CONFLICT IN YEMEN

Mr. CARDIN (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 341

Whereas the people and government of Yemen currently face tremendous security challenges, including the presence of a substantial number of al Qaeda militants, a rebellion in the northern part of the country,

unrest in southern regions, and piracy in the Gulf of Aden;

Whereas these security challenges are compounded by a lack of governance throughout portions of the country;

Whereas this lack of governance creates a de facto safe haven for al Qaeda and militant forces in regions of Yemen;

Whereas Yemen also faces significant development challenges, reflected in its ranking of 140 out of 182 countries in the United Nations Development Program's 2009 Human Development Index;

Whereas Yemen is also confronted with limited and rapidly depleting natural resources, including oil, which accounts for over 75 percent of government revenue, and water, ⅓ of which goes to the cultivation of qat, a narcotic to which a vast number of Yemenis are addicted;

Whereas government subsidies are contributing to the depletion of Yemen's scarce resources;

Whereas the people of Yemen suffer from a lack of certain government services, including a robust education and skills training system;

Whereas the Department of State's 2009 International Religious Freedom Report notes that nearly all of the once-sizeable Jewish population in Yemen has emigrated, and, based on fears for the Jewish community's safety in the country, the United States Government has initiated a special process to refer Yemeni Jews for refugee resettlement in the United States;

Whereas women in Yemen have faced entrenched discrimination, obstacles in accessing basic education, and gender-based violence in their homes, communities, and workplaces while little is done to enforce or bolster the equality of women;

Whereas these challenges pose a threat not only to the Republic of Yemen, but to the region and to the national security of the United States;

Whereas, to the extent that Yemen serves as a base for terrorist operations and recruitment, these threats must be given sufficient consideration in the global strategy of the United States to combat terrorism;

Whereas this threat has materialized in the past, including the March 18 and September 17, 2008, attacks on the United States Embassy in Sana'a and the October 12, 2000, attack on the U.S.S. Cole while it was anchored in the Port of Aden, as well as numerous other terrorist attacks;

Whereas the population of Yemen has suffered greatly from conflict and underdevelopment in Yemen;

Whereas up to 150,000 civilians have fled their homes in northern Yemen since 2004 in response to conflict between Government of Yemen forces and al-Houthi rebel forces; and

Whereas the people and government of the United States support peace in Yemen and improved security, economic development, and basic human rights for the people of Yemen: Now, therefore, be it

Resolved, That the Senate—

(1) supports the innocent civilians in Yemen, especially displaced persons, who have suffered from instability, terrorist operations, and chronic underdevelopment in Yemen;

(2) recognizes the serious threat instability and terrorism in Yemen pose to the security of the United States, the region, and the population in Yemen;

(3) calls on the President to give sufficient weight to the situation in Yemen in efforts to prevent terrorist attacks on the United States, United States allies, and Yemeni civilians;

(4) calls on the President to promote economic and political reforms necessary to advance economic development and good governance in Yemen;

(5) applauds steps that have been taken by the President and the United Nations High Commissioner for Refugees to assist displaced persons in Yemen;

(6) urges the Government of Yemen and rebel forces to immediately halt hostilities, allow medical and humanitarian aid to reach civilians displaced by conflict, and create an environment that will enable a return to normal life for those displaced by the conflict; and

(7) calls on the President and international community to use all appropriate measures to assist the people of Yemen to prevent Yemen from becoming a failed state.

Mr. CARDIN. Mr. President, today I would like to draw attention to a dangerous situation that has implications for the national security of the U.S. and our allies, a situation involving dire humanitarian circumstances, with over 150,000 displaced persons since 2004. I am speaking about the situation in Yemen.

Senator LUGAR and I are introducing a resolution supporting peace, security, and the innocent civilians affected by conflict in Yemen. This resolution calls on the President and international community to use all appropriate measures to prevent Yemen from becoming a failed state.

The gravity of the challenges Yemen faces should not be ignored. To document a few of these challenges: Yemen is home to a substantial number of al-Qaeda militants, a rebellion in the northern part of the country, unrest in southern regions, and piracy in the Gulf of Aden. Yemen has limited and rapidly depleting natural resources including oil, which accounts for over 75 percent of government revenue, and water. Yemen is underdeveloped, ranking 140th out of 182 countries in the United Nations Development Program's 2009 Human Development Index. Thousands of Yemenis are currently displaced as a result of the ongoing conflict between the Government of Yemen and al-Houthi rebel forces. Regions of Yemen have a large degree of lawlessness; religious minorities—particularly the Jewish population—have emigrated due to safety concerns; and human rights violations persist.

The U.S., the international community, and the people of Yemen must do all that we can to prevent Yemen from becoming a failed state. Disrupting, dismantling, and defeating al-Qaeda and violent extremism requires a global strategy that includes preventing Yemen from serving as a base for terrorist operations conducted elsewhere. Americans and our allies are all too familiar with the dangers of terrorists operating unimpeded. The March 18 and September 17, 2008, attacks on the U.S. Embassy in Sana'a and the October 12, 2000 attack on the U.S.S. *Cole* remind us of this threat specifically in Yemen.

Aside from Yemen's impact on the national security of America and our allies, we cannot ignore the tremendous hardships many in Yemen currently endure. Yemenis deserve to have basic security, basic human rights, and their basic needs met. We need to stand with those who want to live in peace and achieve improved living conditions. I am especially concerned with the plight of those displaced by conflict in Yemen, and I applaud efforts taken by the Obama administration and United Nations High Commissioner for Refugees to assist these displaced persons. I urge the Government of Yemen and rebel forces to halt hostilities, allow medical and humanitarian aid to reach civilians displaced by conflict, and create an environment that will enable a return to normal life for internally displaced persons in Yemen.

I would like to thank the senior Senator from Indiana, who is the Ranking Member of the Senate Foreign Relations Committee, for cosponsoring this resolution on this important issue.

SENATE RESOLUTION 342—RECOGNIZING NATIONAL AMERICAN INDIAN AND ALASKA NATIVE HERITAGE MONTH AND CELEBRATING THE HERITAGE AND CULTURE OF AMERICAN INDIANS AND ALASKA NATIVES AND THE CONTRIBUTIONS OF AMERICAN INDIANS AND ALASKA NATIVES TO THE UNITED STATES

Mr. DORGAN (for himself, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BINGAMAN, Ms. CANTWELL, Mr. CONRAD, Mr. CRAPO, Mr. FRANKEN, Mr. JOHNSON, Mr. MCCAIN, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, and MR. UDALL of New Mexico) submitted the following resolution; which was considered and agreed to:

S. RES. 342

Whereas from November 1, 2009, through November 30, 2009, the United States celebrates National American Indian and Alaska Native Heritage Month;

Whereas American Indians and Alaska Natives are descendants of the original, indigenous inhabitants of what is now the United States;

Whereas, in 2000, the United States Census Bureau reported that there were more than 4,000,000 people in the United States of American Indian and Alaska Native descent;

Whereas, on December 2, 1989, the Committee on Indian Affairs of the Senate held a hearing exploring the contributions of the Iroquois Confederacy, and its influence on the Founding Fathers in the drafting of the Constitution of the United States with the concepts of freedom of speech, the separation of governmental powers, and checks and balances among the branches of government;

Whereas the Senate has reaffirmed that a major national goal of the United States is to provide the resources, processes, and structure that will enable Indian Tribes and tribal members to obtain the quantity and quality of health care services and opportunities that will eliminate the health disparities between American Indians and the general population of the United States;

Whereas Congress recently reaffirmed its trust responsibility to improve the housing conditions and socioeconomic status of American Indians and Alaska Natives by providing affordable homes in a safe and healthy environment;

Whereas, throughout its course of dealing with Indian Tribes, the United States Government has engaged in a government-to-government relationship with Tribes;

Whereas the United States Government owes a trust obligation to Tribes, acknowledged in treaties, statutes, and decisions of the Supreme Court, to protect the interests and welfare of tribal governments and their members;

Whereas American Indians and Alaska Natives have consistently served with honor and distinction in the Armed Forces of the United States, some as early as the Revolutionary War, and continue to serve in the Armed Forces in greater numbers per capita than any other group in the United States;

Whereas American Indians and Alaska Natives speak and preserve indigenous languages and have contributed hundreds of words to the English language, including the names of people and locations in the United States;

Whereas Congress has recognized Native American code talkers who served with honor and distinction in World War I and World War II, using indigenous languages as an unbreakable military code, saving countless American lives;

Whereas American Indians and Alaska Natives are deeply rooted in tradition and culture, which drives their strength of community; and

Whereas American Indians and Alaska Natives of all ages celebrate the great achievements of their ancestors and heroes and continue to share their stories with future generations: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the celebration of National American Indian and Alaska Native Heritage Month during the month of November 2009;

(2) honors the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; and

(3) urges the people of the United States to observe National American Indian and Alaska Native Heritage Month with appropriate programs and activities.

SENATE CONCURRENT RESOLUTION 47—RECOGNIZING THE 75TH ANNIVERSARY OF THE ESTABLISHMENT OF THE EAST BAY REGIONAL PARK DISTRICT IN CALIFORNIA AND FOR OTHER PURPOSES

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 47

Whereas November 6, 2009, will mark the 75th anniversary of the historic passage of a ballot measure to create the East Bay Regional Park District (referred to in this preamble as the ''District'') in California's San Francisco Bay Area by a convincing ''yes'' vote of a 2½ to 1 margin in 1934 during the height of the Depression;

Whereas with the help of the Civilian Conservation Corps, the Works Progress Administration, and private contractors, the District began putting people to work to establish the District's first 3 regional parks—Tilden, Temescal, and Sibley;

Whereas over the intervening 75 years, the District has grown to be the largest regional park agency in the United States with nearly 100,000 acres of parklands spread across 65 regional parks and over 1,100 miles of trails in Alameda and Contra Costa Counties;

Whereas approximately 14,000,000 visitors a year from throughout the San Francisco Bay Area and beyond take advantage of the vast and diverse District parklands and trails;

Whereas the vision of the District is to preserve the priceless heritage of the region's natural and cultural resources, open space, parks, and trails for the future, and to set aside park areas for enjoyment and healthful recreation for current and future generations;

Whereas the mission of the District is to acquire, develop, manage, and maintain a high quality, diverse system of interconnected parklands that balances public usage and education programs with the protection and preservation of the East Bay's most spectacular natural and cultural resources;

Whereas an environmental ethic guides the District in all that it does;

Whereas in 1988, East Bay voters approved the passage of Measure AA, a $225,000,000 bond to provide 20 years of funding for regional and local park acquisition and development projects;

Whereas in 2008, under the strategic leadership of its Board of Directors and General Manager Pat O'Brien, East Bay voters approved passage of the historic Measure WW, a $500,000,000 renewal of the original Measure AA bond—the largest regional or local park bond ever passed in the United States; and

Whereas throughout 2009, the District's 75th Anniversary will be recognized through special events and programs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the 75th anniversary of the establishment of the East Bay Regional Park District; and

(2) honors the board members, general managers, and East Bay Regional Park District staff who have dutifully fulfilled the mission of protecting open space and providing outdoor recreation opportunities for generations of families in the East Bay.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2726. Mr. DEMINT 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 2727. 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.

SA 2728. Mr. REID submitted an amendment intended to be proposed to amendment SA 2393 proposed by Mr. JOHANNS to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2729. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2730. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 3082, supra.

SA 2731. Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2732. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2733. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2734. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2735. Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2736. Mr. AKAKA (for himself and Mr. VOINOVICH) proposed an amendment to the bill S. 806, to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes.

TEXT OF AMENDMENTS

SA 2726. Mr. DEMINT 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 ont he table; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available by this Act may be used to support, prepare for, or otherwise facilitate the transfer to or the detention in any State or territory of the United States any individual who has detained as of October 1, 2009, at Naval Station, Guatanamo Bay, Cuba.

SA 2727. Mr. SHELBY 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 at the end of line 19 insert the following:

SEC. XXX. At the discretion of the Attorney General, funds appropriated under the heading ''Methamphetamine enforcement and cleanup'' under funding for the Department of Justice in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (Public Law 108–11) to the Blount, Dekalb, Etowah, Marshall, Marion, Morgan, Pickens, Walker Counties, Alabama Drug Task Forces for the Anti-Methamphetamine Project may be available to the Etowah County Drug Enforcement Unit for the Dekalb, Etowah, Marshall, Marion, Morgan, Pickens, Walker Counties, Alabama Drug Task Forces and the Blount County Sheriffs Department.

SA 2728. Mr. REID submitted an amendment intended to be proposed to amendment SA 2393 proposed by Mr. JOHANNS 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:

At the end of the amendment, add the following:

The provisions of the amendment shall become effective one day after enactment.

SA 2729. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction; the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any anticipated major construction projects related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

SA 2730. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 3, 2010, and for other purposes; as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $3,477,673,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed $191,573,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $3,548,771,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed $176,896,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,213,539,000, to remain available until September 30, 2014: *Provided*, That of this amount, not to exceed $106,918,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $3,069,114,000, to remain available until September 30, 2014: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $142,942,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $497,210,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $297,661,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $379,012,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $64,124,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $47,376,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be

expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $276,314,000, to remain available until expended: *Provided*, That of the amount appropriated, not to exceed $41,400,000 shall be available for the United States share of the planning, design and construction of a new North Atlantic Treaty Organization headquarters.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $273,236,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $523,418,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $146,569,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $368,540,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $66,101,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $502,936,000.

FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $2,859,000, to remain available until September 30, 2014: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $49,214,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,600,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), as amended by section 1001 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 194), $373,225,000, to remain available until expended.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $151,541,000, to remain available until September 30, 2014, which shall be only for the Assembled Chemical Weapons Alternatives program: *Provided*, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $421,768,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $7,479,498,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or $2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than $5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term ''host country'' means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

(INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in ''Family Housing'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in ''Military Construction'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program incurred under 42 U.S.C. 3374(a)(1)(A). Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 123. Funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense

certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided,* That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation ''Foreign Currency Fluctuations, Construction, Defense'', to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 127. Amounts appropriated or otherwise made available in an account funded under the headings in this title may be transferred among projects and activities within that account in accordance with the reprogramming guidelines for military construction and family housing construction contained in the report accompanying this Act, and in the guidance for military construction reprogrammings and notifications contained in Department of Defense Financial Management Regulation 7000.14–R, Volume 3, Chapter 7, of December 1996, as in effect on the date of enactment of this Act.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, $47,218,207,000, to remain available until expended: *Provided,* That not to exceed $29,283,000 of the amount appropriated under this heading shall be reimbursed to ''General operating expenses'', ''Medical support and compliance'', and ''Information technology systems'' for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the ''Compensation and pensions'' appropriation: *Provided further,* That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to ''Medical care collections fund'' to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 33, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, $8,663,624,000, to remain available until expended: *Provided,* That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, $49,288,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during fiscal year 2010, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $165,082,000.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $29,000, as authorized by chapter 31 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,298,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $328,000, which may be paid to the appropriation for ''General operating expenses''.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, $664,000.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed $750,000 of the amounts appropriated by this Act for ''General operating expenses'' and ''Medical support and compliance'' may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $34,704,500,000, plus reimbursements: *Provided,* That of the funds made available under this heading, not to exceed $1,600,000,000 shall be available until September 30, 2011: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further,* That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further,* That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $5,100,000,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2011.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $4,849,883,000, plus reimbursements, of

which $250,000,000 shall be available until September 30, 2011: *Provided*, That $100,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, $580,000,000, plus reimbursements, to remain available until September 30, 2011.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the National Cemetery Administration, $250,000,000, of which not to exceed $24,200,000 shall be available until September 30, 2011.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $2,086,251,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than $1,689,207,000: *Provided further*, That of the funds made available under this heading, not to exceed $111,000,000 shall be available for obligation until September 30, 2011: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for pay and associated costs; and for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, $3,307,000,000, plus reimbursements, to be available until September 30, 2011: *Provided*, That not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which sets forth, by project, the Operations and Maintenance and Salaries and Expenses costs to be carried out utilizing amounts made available by this heading: *Provided further*, That of the amounts appropriated, $800,485,000 may not be obligated or expended until the Secretary of Veterans Affairs or the Chief Information Officer of the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress a certification of the amounts, in parts or in full, to be obligated and expended for each development project: *Provided further*, That amounts specified in the certification with respect to development projects under the preceding proviso shall be incorporated into the reprogramming base letter with respect to development projects funded using amounts appropriated by this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $109,000,000, of which $6,000,000 shall be available until September 30, 2011.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, $1,194,000,000, to remain available until expended, of which $16,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, and funds provided for the purchase of land for the National Cemetery Administration through the land acquisition line item, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2010, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2010; and (2) by the awarding of a construction contract by September 30, 2011: *Provided further*, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the time limitations established above.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, $685,000,000, to remain available until expended, along with unobligated balances of previous ''Construction, minor projects'' appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, $115,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, $42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2010 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the ''Medical services'', ''Medical support and compliance'' and ''Medical facilities'' accounts may be transferred between the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided*, That any transfers between the ''Medical services'' and ''Medical support and compliance'' accounts of 1 percent or less of the total amount appropriated to the account in this or any other Act may take place subject to notification from the Secretary of Veterans Affairs to the Committees on Appropriations of both Houses of Congress of the amount and purpose of the transfer: *Provided further*, That any transfers between the ''Medical services'' and ''Medical support and compliance'' accounts in excess of 1 percent, or exceeding the cumulative 1 percent for the fiscal year,

may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued: *Provided further*, That any transfer to or from the ''Medical facilities'' account may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for ''Construction, major projects'', and ''Construction, minor projects'') shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the ''Medical services'' account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2009.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from ''Compensation and pensions''.

(INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2010, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the ''General operating expenses'' and ''Information technology systems'' accounts for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2010 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 2010 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed $34,158,000 for the Office of Resolution Management and $3,278,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided*, That payments may be made in advance for services to be furnished based on estimated costs: *Provided further*, That amounts received shall be credited to the ''General operating expenses'' and ''Information technology systems'' accounts for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than $1,000,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided*, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further*, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the ''Construction, major projects'' and ''Construction, minor projects'' accounts and be used for construction (including site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in ''Construction, major projects'' and ''Construction, minor projects''.

SEC. 214. Amounts made available under ''Medical services'' are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to ''Medical services'', to remain available until expended for the purposes of that account: *Provided*, That, for fiscal year 2010, $200,000,000 deposited in the Department of Veterans Affairs Medical Care Collections Fund shall be transferred to ''Medical Facilities'', to remain available until expended, for non-recurring maintenance at existing Veterans Health Administration medical facilities: *Provided further*, That the allocation of amounts transferred to ''Medical Facilities'' under the preceding proviso shall not be subject to the Veterans Equitable Resource Allocation formula.

SEC. 216. The Secretary of Veterans Affairs may enter into agreements with Community Health Centers in rural Alaska, Indian tribes and tribal organizations which are party to the Alaska Native Health Compact with the Indian Health Service, and Indian tribes and tribal organizations serving rural Alaska which have entered into contracts with the Indian Health Service under the Indian Self Determination and Educational Assistance Act, to provide healthcare, including behavioral health and dental care. The Secretary shall require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary. The term ''rural Alaska'' shall mean those lands sited within the external boundaries of the Alaska Native regions specified in sections 7(a)(1)–(4) and (7)–(12) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), and those lands within the Alaska Native regions specified in sections 7(a)(5) and 7(a)(6) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), which are not within the boundaries of the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough or the Matanuska Susitna Borough.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the ''Construction, major projects'' and ''Construction, minor projects'' accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 219. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

(INCLUDING TRANSFER OF FUNDS)

SEC. 220. Amounts made available under the ''Medical services'', ''Medical support and compliance'', ''Medical facilities'', ''General operating expenses'', and ''National Cemetery Administration'' accounts for fiscal year 2010, may be transferred to or from the ''Information technology systems'' account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 221. Amounts made available for the ''Information technology systems'' account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than $1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 222. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors shall be transferred to and merged with amounts available under the ''Compensation and pensions'' account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the ''Compensation and pensions'' account.

SEC. 223. The Department shall continue research into Gulf War illness at levels not less than those made available in fiscal year 2009, within available funds contained in this Act.

SEC. 224. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans Affairs may transfer not more than $5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress of any such transfer of funds under this section.

SEC. 225. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 226. Of the amounts made available to the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the ''Medical Facilities'' account for non-recurring maintenance, not more than 20 percent of the funds made available shall be obligated during the last 2 months of the fiscal year: *Provided*, That the Secretary may waive this requirement after providing written notice to the Committees on Appropriations of both Houses of Congress.

SEC. 227. Section 1925(d)(3) of title 38, United States Code, is amended by striking ''appropriation 'General Operating Expenses, Department of Veterans Affairs' '', and inserting ''appropriations for 'General Operating Expenses and Information Technology Systems, Department of Veterans Affairs' ''.

SEC. 228. Section 1922(a) of title 38, United States Code, is amended by striking ''(5) administrative costs to the Government for the costs of'', and inserting ''(5) administrative support performed by General Operating Expenses and Information Technology Systems, Department of Veterans Affairs, for''.

TITLE III

RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $63,549,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, $27,115,000, of which $1,820,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $37,200,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally owned water main at Arlington National Cemetery making additional land available for ground burials.

ARMED FORCES RETIREMENT HOME

TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $134,000,000, of which $72,000,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi.

TITLE IV

OVERSEAS CONTINGENCIES OPERATIONS

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $924,484,000, to remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $474,500,000, to remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

TITLE V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $37,136,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011: *Provided*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $5,307,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several

hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $5,740,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

TITLE VI

GENERAL PROVISIONS

SEC. 601. 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. 602. Such sums as may be necessary for fiscal year 2010 for pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 603. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 604. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 605. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of ''E-Commerce'' technologies and procedures in the conduct of their business practices and public service activities.

SEC. 606. 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 or any other appropriations Act.

SEC. 607. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

This Act may be cited as the ''Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010''.

SA 2731. Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' is hereby increased by $37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'', as increased by paragraph (1), $37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' and available for the purpose of Unmanned Aerial System Field Training facilities construction, $37,500,000 is hereby rescinded.

SA 2732. Mr. JOHNSON (for himself and Mrs. HUTCHISON) proposed an amendment to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 56, between lines 9 and 10, insert the following:

SEC. 401. Amounts appropriated or otherwise made available by this title are 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.

SA 2733. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'' is hereby increased by $50,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'', as increased by paragraph (1), $50,000,000 shall be available for renovation of Department of Veterans Affairs buildings for the purpose of converting unused structures into housing with supportive services for homeless veterans.

(b) The amount appropriated or otherwise made available by title I under the heading ''HOMEOWNERS ASSISTANCE FUND'' is hereby reduced by $50,000,000.

SA 2734. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. Not later than each of April 15, 2010, July 15, 2010, and October 15, 2010, the Secretary of Defense shall submit to the congressional defense committees a consolidated report from each of the military departments and Defense agencies identifying, by project and dollar amount, bid savings resulting from cost and scope variations pursuant to section 2853 of title 10, United States Code, exceeding 25 percent of the appropriated amount for military construction projects funded by this Act, the Supplemental Appropriations Act, 2009 (Public Law 111–32), and the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110-329), including projects funded through the regular military construction accounts, the Department of Defense Base Closure Account 2005, and the overseas contingency operations military construction accounts.

SA 2735. Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' is hereby increased by $68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'', as increased by paragraph (1), $68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' and available for the purpose of European Ballistic Missile Defense program construction, $68,500,000 is hereby rescinded.

SA 2736. Mr. AKAKA (for himself and Mr. VOINOVICH) proposed an amendment to the bill S. 806, to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Executive Board Authorization Act of 2009''.

SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

''§ 1106. Federal Executive Boards

''(a) PURPOSES.—The purposes of this section are to—

''(1) strengthen the coordination of Government activities;

''(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

''(3) facilitate communication and collaboration on Federal emergency preparedness and continuity of operations for the Federal workforce in applicable geographic areas; and

''(4) provide stable funding for Federal Executive Boards.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency'—

''(A) means an Executive agency as defined under section 105; and

''(B) shall not include the Government Accountability Office.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

''(3) FEDERAL EXECUTIVE BOARD.—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, DC. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

''(c) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

''(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

''(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

''(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

''(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

''(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

''(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

''(d) ADMINISTRATION AND OVERSIGHT.—

''(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

''(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

''(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

''(C) establishing communications policies for the dissemination of information to agencies;

''(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

''(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

''(F) administering Federal Executive Board funding through the fund established in subsection (f).

''(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

''(e) GOVERNANCE AND ACTIVITIES.—

''(1) IN GENERAL.—Each Federal Executive Board shall—

''(A) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

''(B) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

''(C) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

''(D) provide a forum for the exchange of information relating to programs and management methods and problems—

''(i) between the national headquarters of agencies and the field; and

''(ii) among field elements in the geographic area;

''(E) develop local coordinated approaches to the development and operation of programs that have common characteristics;

''(F) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

''(G) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that Board;

''(H) in coordination with appropriate agencies and consistent with any relevant memoranda of understanding between the Office of Personnel Management and such agencies, facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations; and

''(I) take other actions as agreed to by the Federal Executive Board and the Director.

''(2) COORDINATION OF CERTAIN ACTIVITIES.—The facilitation of communication, collaboration, and training described under paragraph (1)(H) shall, when appropriate, be coordinated and defined through memoranda of understanding entered into between the Director and headquarters of appropriate agencies.

''(f) FUNDING.—

''(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

''(A) including basic staffing and operating expenses; and

''(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

''(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

''(3) CONTRIBUTIONS.—

''(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

''(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

''(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

''(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

''(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

''(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.''.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

''1106. Federal Executive Boards.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 5, 2009, at 9:30 a.m.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on November 5, 2009, at 9 a.m. in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 5, 2009, at 2:30 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Employment Non-Discrimination Act: Ensuring Opportunity for All Americans'' on November 5, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m. to conduct a hearing entitled ''Business Formation and Financial Crime: Finding a Legislative Solution.''

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

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on November 5, 2009 at 10 a.m. to conduct a hearing on VA and Indian Health Service Cooperation. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on November 5, 2009, at 3 p.m.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate on November 5, 2009, at 2 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The First Line of Defense: Reducing Recidivism at the Local Level.''

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

SUBCOMMITTEE ON WATER AND POWER

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate to conduct a hearing on November 5, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Ms. MIKULSKI. Mr. President, I ask unanimous consent, on behalf of Senator DURBIN, that Richard Burkard, a detailee from the Financial Services and General Government Appropriations Subcommittee, be granted the privilege of the floor during the consideration of the Commerce-Justice-Science Appropriations Act and any votes thereon.

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

FEDERAL EXECUTIVE BOARD AUTHORIZATION ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 164, S. 806.

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

The assistant legislative clerk read as follows:

A bill (S. 806) to provide for the establishment and administration and funding of Federal Executive Boards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Homeland Security and Governmental Affairs, 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 ''Federal Executive Board Authorization Act of 2009''.

SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

''§ 1106. Federal Executive Boards

''(a) PURPOSES.—The purposes of this section are to—

''(1) strengthen the coordination of Government activities;

''(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

''(3) facilitate communication and collaboration on Federal activities outside the Washington, D.C. metropolitan area; and

''(4) provide stable funding for Federal Executive Boards.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency'—

''(A) means an Executive agency as defined under section 105; and

''(B) shall not include the Government Accountability Office.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

''(3) FEDERAL EXECUTIVE BOARD.—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

''(c) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

''(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

''(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

''(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

''(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

''(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

''(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

''(d) ADMINISTRATION AND OVERSIGHT.—

''(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

''(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

''(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

''(C) establishing communications policies for the dissemination of information to agencies;

''(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

''(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

''(F) administering Federal Executive Board funding through the fund established in subsection (f).

''(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

''(e) GOVERNANCE AND ACTIVITIES.—Each Federal Executive Board shall—

''(1) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

''(2) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

''(3) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

''(4) provide a forum for the exchange of information relating to programs and management methods and problems—

''(A) between the national headquarters of agencies and the field; and

''(B) among field elements in the geographic area;

''(5) develop local coordinated approaches to the development and operation of programs that have common characteristics;

''(6) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

''(7) develop relationships with State and local governments and nongovernmental organizations to help in coordinating agency outreach; and

''(8) take other actions as agreed to by the Federal Executive Board and the Director.

''(f) FUNDING.—

''(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

''(A) including basic staffing and operating expenses; and

''(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

''(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

''(3) CONTRIBUTIONS.—

''(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

''(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

''(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

''(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

''(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

''(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.''.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

''1106. Federal Executive Boards.''.

EMERGENCY PREPAREDNESS

Mr. AKAKA. Mr. President, Senator VOINOVICH and I have offered a floor amendment to S. 806, the Federal Executive Board Authorization Act of 2009, to clearly authorize and provide guidance for the existing work of Federal Executive Boards, FEBs, in emergency preparedness and continuity of operations, COOP.

Mr. VOINOVICH. Mr. President, I want to thank Senator AKAKA for leading this amendment to recognize FEBs' role in preparing the Federal workforce for emergencies. FEBs participate in a number of activities in this regard, including working with the Department of Health and Human Services to brief the Federal workforce on points of distribution that can be set up to dispense medication during health emergencies and working with the Office of Personnel Management, OPM, and the Chief Human Officers Council to distribute information on human resources flexibilities available during snow storms and other emergencies. Our floor amendment clarifies that these activities can and should continue.

Mr. AKAKA. Mr. President, as Senator VOINOVICH has mentioned, FEBs already participate in a range of emergency preparedness efforts. These include working with OPM and individual agencies to develop COOP plans and taking other actions to prepare the Federal workforce for and protect them from public health dangers, inclement weather, and other emergencies. In 2004, the Government Accountability Office, GAO, released a report on COOP planning in the federal sector, which recognized that FEBs are uniquely positioned to coordinate emergency preparedness efforts among the Federal workforce, given their responsibility for improving coordination among federal activities outside of Washington, D.C. Following GAO's recommendation, OPM and the Federal Emergency Management Agency began more closely coordinating their efforts to improve guidance to federal agencies on emergency preparation and COOP.

Our amendment recognizes and provides guidance for such coordination. Specifically, our amendment requires FEBs to facilitate communication and collaboration on emergency preparedness and COOP activities for the Federal workforce in areas where FEBs exist. Our amendment also requires each FEB to develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that FEB, and requires that the communication, collaboration, and training to prepare the Federal workforce for emergencies and COOP be defined through memoranda of understanding, MOU, between the Director of OPM and the headquarters of appropriate agencies when necessary.

We do not intend for MOUs to be created for every activity that FEBs participate in, nor with every agency participating in FEBs. As the substitute amendment states, MOUs should be created where appropriate. OPM may need MOUs with those agencies with which FEBs coordinate most actively because they play a substantial role in preparing the Federal workforce for emergencies and COOP.

Mr. VOINOVICH. Mr. President, I concur with my colleague. Our floor amendment requires FEBs to coordinate with appropriate agencies for preparedness, response, and COOP. We do not mean that OPM must enter into a memorandum of understanding with every agency that participates in an FEB or every agency that is affected by an FEB. We believe OPM should have the discretion and flexibility to determine which agencies are the ''appropriate agencies'' to coordinate with in any particular situation as well as the discretion to decide when that coordination needs to be defined in memoranda of understanding or other formal agreement.

Mr. AKAKA. Mr. President, I thank my good friend and colleague from Ohio for entering into this colloquy. Recognizing FEBs' role in emergency preparedness operations is important to supporting their efforts to prepare our Federal workforce. Again, I want to say mahalo to Senator VOINOVICH for his leadership on this important legislation.

Mr. CASEY. I ask unanimous consent the committee substitute amendment be withdrawn; that an Akaka-Voinovich substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate and any statements be printed in the RECORD.

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

The amendment (No. 2736) was agreed to, as follows:

AMENDMENT NO. 2736

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Executive Board Authorization Act of 2009''.

SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

''§ 1106. Federal Executive Boards

''(a) PURPOSES.—The purposes of this section are to—

''(1) strengthen the coordination of Government activities;

''(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

''(3) facilitate communication and collaboration on Federal emergency preparedness and continuity of operations for the Federal workforce in applicable geographic areas; and

''(4) provide stable funding for Federal Executive Boards.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency'—

''(A) means an Executive agency as defined under section 105; and

''(B) shall not include the Government Accountability Office.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

''(3) FEDERAL EXECUTIVE BOARD.—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

''(c) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

''(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

''(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

''(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

''(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

''(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

''(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

''(d) ADMINISTRATION AND OVERSIGHT.—

''(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

''(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

''(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

''(C) establishing communications policies for the dissemination of information to agencies;

''(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

''(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

''(F) administering Federal Executive Board funding through the fund established in subsection (f).

''(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

''(e) GOVERNANCE AND ACTIVITIES.—

''(1) IN GENERAL.—Each Federal Executive Board shall—

''(A) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

''(B) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

''(C) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

''(D) provide a forum for the exchange of information relating to programs and management methods and problems—

''(i) between the national headquarters of agencies and the field; and

''(ii) among field elements in the geographic area;

''(E) develop local coordinated approaches to the development and operation of programs that have common characteristics;

''(F) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

''(G) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that Board;

''(H) in coordination with appropriate agencies and consistent with any relevant memoranda of understanding between the Office of Personnel Management and such agencies, facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations; and

''(I) take other actions as agreed to by the Federal Executive Board and the Director.

''(2) COORDINATION OF CERTAIN ACTIVITIES.—The facilitation of communication, collaboration, and training described under paragraph (1)(H) shall, when appropriate, be coordinated and defined through memoranda of understanding entered into between the Director and headquarters of appropriate agencies.

''(f) FUNDING.—

''(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

''(A) including basic staffing and operating expenses; and

''(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

''(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

''(3) CONTRIBUTIONS.—

''(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

''(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

''(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

''(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

''(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

''(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.''.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

''1106. Federal Executive Boards.''.

The bill (S. 806), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

TERMS OF SERVICE IN THE OFFICE OF COMPLIANCE

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 197, S. 1860.

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

The assistant legislative clerk read as follows.

A bill (S. 1860) to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms.

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

Mr. CASEY. Mr. President, I ask unanimous consent 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 be printed in the RECORD.

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

The bill (S. 1860) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TERM FOR MEMBERS OF BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE.

Notwithstanding the second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance as of September 30, 2009, may serve for 3 terms.

NATIONAL AMERICAN INDIAN AND ALASKA NATIVE HERITAGE MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 342, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 342) recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States.

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

Mr. DORGAN. Mr. President, on October 30, 2009, President Obama issued a proclamation designating November 2009 as National American Indian and Alaska Native Heritage Month. This President follows a tradition of Presidents since 1990 of issuing proclamations honoring the significant contributions of tribal governments and individual Native Americans to our Nation's history and development.

Congress also has traditionally recognized the contributions of Native Americans to the United States in the form of resolutions, findings, coins and medals. The resolution introduced here today continues in that tradition.

This resolution recognizes some of the many contributions that Native Americans have made to help build our great Nation as well as the continued contributions of Native Americans to the growth of the United States. Native Americans have made significant contributions in the fields of agriculture, medicine, music, language, and art. They were an influencing force in the founding documents of our Federal Government. Indian tribes have even made use of Native languages to develop an unbreakable military code that helped defeat the Axis powers in World War II. These remarkable tribes and individual Native Americans have shaped our Nation's history in so many very meaningful ways.

Through this resolution, we recognize and celebrate these and many other contributions of tribal governments and Native Americans during the month of November. It is particularly important that President Obama has decided to host a Tribal Leaders Summit at the White House. The President will meet with tribal leaders in Washington, DC, November 5, 2009, to discuss the many issues facing tribal communities throughout the Nation.

We have several very important pieces of legislation before this body that I hope to move in the interest of the First Americans. S. 1790, the Indian Health Care Improvement Reauthorization and Extension Act of 2009, was introduced on October 15, 2009, after much consultation and discussion among tribal leaders and Indian health experts. I will work very hard this Congress to get this important piece of legislation to the President's desk. In addition, after many, many hearings and numerous listening sessions, I introduced S. 797, the Tribal Law and Order Act of 2009, earlier this year. This important piece of legislation has strong bipartisan support and will help to improve the status of law and order on tribal lands. The bill has been approved by the Indian Affairs Committee and is waiting for approval by the full Senate.

I urge all citizens, and local, State, and Federal governments and agencies to take time this month to learn more about the many facets of Native American history, traditions, and their important contributions to the formation of the United States. Mr. President, I ask that this resolution be adopted quickly and that it act as encouragement to all people of the United States to observe the month of November as National American Indian and Alaska Native Heritage Month.

Mr. CASEY. 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 be printed in the RECORD.

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

The resolution (S. Res. 342) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 342

Whereas from November 1, 2009, through November 30, 2009, the United States celebrates National American Indian and Alaska Native Heritage Month;

Whereas American Indians and Alaska Natives are descendants of the original, indigenous inhabitants of what is now the United States;

Whereas, in 2000, the United States Census Bureau reported that there were more than 4,000,000 people in the United States of American Indian and Alaska Native descent;

Whereas, on December 2, 1989, the Committee on Indian Affairs of the Senate held a hearing exploring the contributions of the Iroquois Confederacy, and its influence on the Founding Fathers in the drafting of the Constitution of the United States with the concepts of freedom of speech, the separation of governmental powers, and checks and balances among the branches of government;

Whereas the Senate has reaffirmed that a major national goal of the United States is to provide the resources, processes, and structure that will enable Indian Tribes and tribal members to obtain the quantity and quality of health care services and opportunities that will eliminate the health disparities between American Indians and the general population of the United States;

Whereas Congress recently reaffirmed its trust responsibility to improve the housing conditions and socioeconomic status of American Indians and Alaska Natives by providing affordable homes in a safe and healthy environment;

Whereas, throughout its course of dealing with Indian Tribes, the United States Government has engaged in a government-to-government relationship with Tribes;

Whereas the United States Government owes a trust obligation to Tribes, acknowledged in treaties, statutes, and decisions of the Supreme Court, to protect the interests and welfare of tribal governments and their members;

Whereas American Indians and Alaska Natives have consistently served with honor and distinction in the Armed Forces of the United States, some as early as the Revolutionary War, and continue to serve in the Armed Forces in greater numbers per capita than any other group in the United States;

Whereas American Indians and Alaska Natives speak and preserve indigenous languages and have contributed hundreds of words to the English language, including the names of people and locations in the United States;

Whereas Congress has recognized Native American code talkers who served with honor and distinction in World War I and World War II, using indigenous languages as an unbreakable military code, saving countless American lives;

Whereas American Indians and Alaska Natives are deeply rooted in tradition and culture, which drives their strength of community; and

Whereas American Indians and Alaska Natives of all ages celebrate the great achievements of their ancestors and heroes and continue to share their stories with future generations: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the celebration of National American Indian and Alaska Native Heritage Month during the month of November 2009;

(2) honors the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; and

(3) urges the people of the United States to observe National American Indian and Alaska Native Heritage Month with appropriate programs and activities.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 110–181, and in consultation with chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations, appoints the following individual to be a member of the Commission on Wartime Contracting in Iraq and Afghanistan: Katherine Schinasi of Washington, DC, vice Linda J. Gustitus of the District of Columbia.

ORDERS FOR FRIDAY, NOVEMBER 6, 2009

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, November 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 resume consideration of H.R. 3082, the Military Construction and Veterans Affairs appropriations bill.

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

PROGRAM

Mr. CASEY. There will be no rollcall votes during Friday's session of the Senate. As previously announced, the next vote will occur at approximately 5:30 p.m. Monday.

ADJOURNMENT UNTIL 9:30 TOMORROW

Mr. CASEY. 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 8:31 p.m., adjourned until Friday, November 6, 2009, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, November 5, 2009:

DEPARTMENT OF STATE

ARTURO A. VALENZUELA, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROLENA KLAHN ADORNO, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014.

MARVIN KRISLOV, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

ANNE S. FERRO, OF MARYLAND, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

DEPARTMENT OF TRANSPORTATION

CYNTHIA L. QUARTERMAN, OF GEORGIA, TO BE ADMINISTRATOR OF THE PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ELIZABETH M. ROBINSON, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

DEPARTMENT OF COMMERCE

PATRICK GALLAGHER, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

MERIT SYSTEMS PROTECTION BOARD

SUSAN TSUI GRUNDMANN, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD.

SUSAN TSUI GRUNDMANN, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2016.

ANNE MARIE WAGNER, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2014.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

IGNACIA S. MORENO, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL .

LAURIE O. ROBINSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

BENJAMIN B. WAGNER, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

CARMEN MILAGROS ORTIZ, OF MASSACHUSETTS, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS.

EDWARD J. TARVER, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

EXPEDITED CARD REFORM FOR CONSUMERS ACT OF 2009

SPEECH OF

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 4, 2009

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3639) to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes:

Mr. BACA. Mr. Chair, I rise today in support of H.R. 3639—the Expedited CARD Act of 2009. This important piece of legislation will continue the great work that this Congress and the President completed earlier this year, by moving up the remaining dates on the original Credit CARD Act.

Since signing the CARD Act into law, credit card companies have engaged in last-ditch predatory practices, seeking to gain as much money as possible from the American consumer. Many of the same practices that the Federal Reserve labeled ''unfair or deceptive'' and were prohibited in the original CARD Act, have increased in past months. In fact, since last May, credit card companies have raised interest rates by an average of 20 percent.

When this law was passed, this body warned credit card companies that swift action would be taken if these companies took advantage of the staggered implementation of the bill. It is clear these companies have done just that, and we are now prepared to follow through on our promise.

I want to thank Mrs. MALONEY and Chairman FRANK for their hard work on this issue and I am proud to be a cosponsor on this important piece of legislation.

I urge my colleagues to vote ''yes'' on this bill.

HONORING ROBERT WAMPLE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Robert Wample upon his retirement as the director of the Viticulture and Enology Research Center and the chair of the Department of Viticulture and Enology at California State University, Fresno. Dr. Wample was honored on September 19, 2009 at a fundraising event for the Robert L. Wample Viticulture and Enology Endowment Fund in support of the Jordan College of Agricultural Sciences and Technology.

Dr. Wample served in the United States Marine Corps from 1962 until 1966. Upon separating from the military, he began his college education. In 1971, he graduated cum laude from the University of Idaho with a Bachelors of Science degree in Botany. While attending college he worked as a Research Technician for the United States Department of Agriculture at the Forest Service research center in Idaho. Dr. Wample continued his education at the University of Calgary in Calgary, Alberta, Canada, where he earned his Ph.D. in Plant Physiology. His teaching career began while in Calgary; while completing his Ph.D. he was a Graduate Teaching Assistant at the University.

After earning his Ph.D., Dr. Wample served as a Postgraduate Scholar for the National Research Council of Canada. In 1976, he moved to southern California to take an Associate Professor of Botany position with California State University, Fullerton. After two years, he moved to Washington State University where he was an Associate Professor of Horticulture and Assistant Horticulturist for nine years. In 1993, he became a Professor, Horticulturist and Viticulturist for the Department of Horticulture and Landscape Architecture at Washington State University. In 2000, Dr. Wample found his way to California State University, Fresno. Over the past nine years, he has served as the Julio Gallo Chair and Director of the Viticulture and Enology Research Center, as well as the Chair of the Department of Viticulture and Enology.

Prior to Dr. Wample joining CSU Fresno, the viticulture and enology had been operating independently of each other for fifty years. Under his leadership, the two programs were merged together to become the first California State University to combine the two research and academic programs. The merge has had great success, including the recognition of CSU Fresno as a global agricultural education prominence. Further, during Dr. Wample's tenure, the program has raised well over five hundred thousand dollars in industry funding for the research programs.

Dr. Wample has served on a number of committees for the departments and colleges he has worked in. He has served on the Washington State Animal Damage Control Advisory Board, the Washington Agriculture and Forestry Leadership Selection Committee, the W–130/WRCC–17, organizing committee for the International Symposium on Nitrogen in Grapes and Wine, the National Grapevine Importation Program and he served as the co-chairman of the committee for the International Symposium on Wine Grape Irrigation. He is also involved with the American Association for the Advancement of Science, American Society of Plant Physiology, American Society of Horticulture Science, American Society of Enology and Viticulture and the Northwest Chapter of the American Society of Enology and Viticulture. Dr. Wample's civic and community membership includes Rotary International, Prosser Wine and Food Fair Committee, Advisor to the Prosser Economic Development Association and United Good Neighbors.

Dr. Wample has been involved with, and led numerous research projects, including research on specific physiological responses of a plant and agricultural advancements in machinery and irrigation. He has spoken at many seminars and given many presentations. Dr. Wample is published in well over two hundred journals, books, magazines, reports, abstracts, papers and publications.

For his activities, inside the university and the community, Dr. Wample has been widely honored. He has been honored by the American Society of Enology and Viticulture, the International Symposium of Nitrogen in Grapes and Wine, the Second International Symposium on Climate Viticulture, International Conference on Crop Productivity and the National Research Council of Canada.

Madam Speaker, I rise today to commend and congratulate Dr. Robert Wample upon his retirement from California State University, Fresno. I invite my colleagues to join me in wishing Dr. Wample many years of continued success.

THANKING JOE ADAMS FOR HIS SERVICE TO THE HOUSE

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. BRADY of Pennsylvania. Madam Speaker, on the occasion of his retirement on November 2, 2009, we rise to thank Mr. Joe Adams for his 32 years of distinguished service to Congress. Joe has served this great institution as a valued employee of the Architect of the Capitol for 19 years and House Information Resources (HIR), in the Office of the Chief Administrative Officer (CAO) for 13 years.

Joe joined HIR in 1996 as a Data Network Engineer. During this time, he successfully upgraded the House Campus Data Network to an Ethernet-based, high-capacity data communications backbone and increased the House Internet connection capacity 200 fold from 3 Megabits per second (Mbps) to 600 Mbps. These upgrades were the foundation of greatly improved information technology service delivery and contributed significantly to highly available, mission critical data transport services.

In recent years, as manager for the Network Systems Engineering Branch, Joe led a team of engineers who helped implement upgrades to support efficient, effective and sustainable services to the House. His unparalleled dedication, considerable institutional knowledge and attention to detail have helped the Office of the CAO maintain a high degree of customer satisfaction. For his performance, he was awarded the ''CAO Distinguished Service Award'' in 2003 and the ''CAO Excellence Award for Knowledge'' in 2008.

On behalf of the entire House community, we extend congratulations to Joe for his years of dedication and outstanding contributions to the United States Congress.

IN HONOR AND REMEMBRANCE OF TERRY JOYCE, SR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of Terry "Kelly" Joyce, Sr., devoted husband, father, grandfather, friend and staunch labor advocate, whose commitment to family, to his Irish heritage and to the workers of Cleveland has left an indelible imprint throughout our community.

Born and raised in County Mayo, Ireland, Mr. Joyce immigrated to America in 1957 and settled in Cleveland. A year later, he met his wife, Bridget "Bridie" Jennings, whose journey to America also originated in County Mayo. They married in 1964 and raised three children, Maureen, Eileen and Terry. Mr. Joyce's wife, children and grandchildren were the center and spark of his life—and he remained actively involved in their lives. Mr. and Mrs. Joyce held their Irish homeland close to their hearts, and regularly celebrated treasured customs and traditions for their children and grandchildren to know and cherish. They travelled often from Cleveland to the Emerald Isle, and their strong connection to their heritage reflected throughout our community. Mr. Joyce was named the Irish Fellowship Man of the Year in 1974, and helped found the Irish National Caucus in Cleveland, serving as its president in 1971. He also served on the board of the West Side Irish American Club (WSIA) for many years, and was named the WSIA Man of the Year in 1978. In 1991, he served as co-chair of the Cleveland St. Patrick's Day Parade, and served as parade announcer for twenty-four years.

Mr. Joyce lived his life with heart, compassion, integrity, a great sense of humor and an unwavering work ethic. He mastered the construction trades and became a union member and leader. In 1957, the same year he settled in America, Mr. Joyce joined Cleveland's Laborers Local 310. From 1965 until his retirement in 1991, he served as Local 310's business agent. Mr. Joyce also served as president of the Ohio Labor District Council from 1975 until his retirement in 1991. During his tenure as labor leader, he worked tirelessly on behalf of workers and their families. Mr. Joyce was responsible for major advances in the labor force, including the attainment of critical benefits, including pensions, for union workers. Because of his leadership, Laborers Local 310 of Cleveland grew to become one of the most effective labor unions in the country.

Madam Speaker, please join me in honor and remembrance of Terry "Kelly" Joyce, Sr., whose energy for life, kind heart, and unwavering service to others will forever endure within the hearts and memories of his family, friends and the laborers of our community. I extend my condolences to Mr. Joyce's wife, Bridget; to his children, Maureen, Eileen and Terry; to his son-in-law John and daughter-in-law Nicole; to his grandchildren, Brona, Eoin, Cormac and Aislinn; sister, Grace; and to his extended family members and numerous friends. From family and friends to County and Cleveland Mayor, Mr. Joyce's love of life and service to others will continue to touch the hearts of many, and he will be remembered always.

PERSONAL EXPLANATION

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. SHUSTER. Madam Speaker, on rollcall No. 852 H. Res. 863, No. 853 H. Res. 641, No. 854 H. Res. 711, and No. 855 H. Res. 856 I was not present. Had I been present, I would have voted "yea" on No. 852; "yea" on No. 853; "yea" on No. 854, and "yea" on No. 855.

CELEBRATING INCREASED FUNDING FOR NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL ENDOWMENT FOR THE HUMANITIES

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HOLT. Madam Speaker, I rise today to highlight the recent increase in funding for the National Endowment for the Arts and National Endowment for the Humanities. The Fiscal Year 2010 Interior Appropriations bill, which President Obama has signed into law, contains $167.5 million in funding for both agencies, an increase of $12.5 million over last year's level. This is on top of the $50 million that the NEA received in the American Recovery and Reinvestment Act to preserve jobs in the arts. As a member of both the Arts and Humanities Caucuses, I want to thank Representatives SLAUGHTER, PLATTS, PRICE (NC), and PETRI, as well as Chairman DICKS, for their hard work in pushing for these funding increases.

The arts and humanities play a crucial role in our society: they enhance our creativity, promote critical aspects of education, and provide Americans with the opportunity to view works of beauty and personal expression. Through exposure to the arts and humanities, our children are inspired to explore their own creativity and encouraged towards positive development in the course of their educational careers. There are also economic benefits of local arts in our communities, not just for those employed in theaters or museums, but also for tourism and economic revitalization programs. The downturn in philanthropic giving, brought on by the economic collapse, has constrained or even closed cultural institutions and, in turn, the restaurants, hotels, and construction industries that rely on their success. This is just one more reason that these funding increases are needed.

I also want to recognize President Obama for understanding the important role that the arts and humanities play in enriching our lives and strengthening our economy. The President has appointed two exceptionally qualified individuals to head the NEA and NEH. Jim Leach, our former colleague, has a distinguished academic background, including his recent service as Visiting Professor of Public and International Affairs at Princeton University's Woodrow Wilson School. He brings to the NEH a first-hand understanding of the needs of educators, historians, curators, researchers, archivists and scholars. Rocco Landesman, the Director of the NEA, has a long and varied career in the performing arts, and has brought an energy and focus to the job that will help foster a vibrant artistic landscape.

Again, I rise to celebrate these important funding increases, and I look forward to working with the President and my colleagues to strengthen support for the arts and humanities.

VETERANS' SMALL BUSINESS ASSISTANCE AND SERVICEMEMBERS PROTECTION ACT OF 2009

SPEECH OF

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 2, 2009

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 3949, the Veterans' Small Business Assistance and Servicemembers Protection Act of 2009, a bill which I am pleased to cosponsor.

Mr. Speaker, this is an omnibus bill that would make improvements in several areas of veterans legislation by including provisions from bills introduced by Economic Opportunity Subcommittee Chairwoman HERSETH SANDLIN, Ms. KIRKPATRICK, Mr. MILLER of North Carolina, Mr. CONNOLLY, Mr. MCINTYRE, Ms. JACKSON-LEE, and Mr. FRANK.

However, I am very disappointed that due to jurisdictional issues raised by the majority side of the Committee on Small Business, a provision from my bill, H.R. 3223 was withdrawn from the bill. My provision would merely change the word "may" to "shall" to authorize VA contracting officers to award non-competitive contracts worth less than $5,000,000 to qualified service disabled veteran-owned businesses. Such contracts would also be required to provide the best value to the government in the judgment of the contracting officer. Changing "may" to "shall" would merely put service-disabled veterans on an equal footing with businesses qualifying as an 8(a) firm under the Small Business Act. The word "shall" is used when awarding noncompetitive contracts to 8(a) firms. The disparity created by using "may" versus "shall" has a negative effect on the ability of service disabled veteran-owned businesses to obtain contracts with VA. It is important that service-disabled veterans are able to compete on a level field and I will continue to advocate for changing "may" to "shall".

Mr. Speaker, I am especially proud of the provisions in Public Law 109–461 passed during the 109th Congress, that improve the competitive status of veteran-owned businesses, VOB, and service-disabled veteran-owned small businesses, SDVOB. We did that by giving Department of Veterans Affairs, VA, contracting officers additional tools to award contracts to those businesses and by making it plain that Congress believed that VOB and SDVOB have priority in VA small business contracting. One of those provisions required VA to maintain a database of veteran and service-disabled veteran-owned businesses and to verify the ownership and control of the businesses listed in the database.

Unfortunately, VA has been slow to implement the verification process and has currently

verified only about 2,000 of the 15,000 businesses listed in the database. Therefore, I am delighted that Subcommittee Chairwoman HERSETH SANDLIN has clarified Congress' intent on having a business included only after verification of ownership and control as a means to prevent awarding contracts to businesses which are not veteran-owned.

With the implementation of the new Post 9/11 GI Bill, it is more important than ever to ensure VA receives up-to-date advice from schools and State Approving Agencies on issues related to veterans education. I congratulate Ms. KIRKPATRICK for extending the life of the Advisory Committee on Veterans Education through 2015.

I am also especially pleased with H.R. 3949's provisions that would strengthen protections for servicemembers under the Servicemembers Civil Relief Act, SCRA, by clarifying the rights and obligations of servicemembers and providers regarding service contracts for cell phone service, residential and automobile leases.

The bill also makes important changes to SCRA by codifying a servicemember's private right of action and authorizing the U.S. Attorney General to bring appropriate action in U.S. District Courts. The bill also authorizes the Courts to award fines up to $110,000, and take other appropriate actions in violations of SCRA.

Mr. Speaker, in addition to direct injuries to a servicemember's eyes, one of the hidden injuries of the wars in Iraq and Afghanistan is the damage to vision done by explosions. Unfortunately, visual injuries as a result of one or more concussive injuries may not manifest for an extended time beyond the event. When combined with direct eye injuries, the number of veterans who will be seeking VA assistance with visual impairment will increase and I share Ms. JACKSON-LEE's and her cosponsor, Mr. BOOZMAN's concern that VA lacks sufficient staff who are experts in treating veterans with visual and mobility impairment. I congratulate them for the provisions that would create a scholarship program for those seeking a degree or certificate in that field.

Mr. Speaker, I have long been an advocate on behalf of VA's National Cemetery System and compassionate treatment of the heroes that are buried there and their families. I appreciate Mr. FRANK's initiative that would allow burial of a parent with a servicemember killed in combat or training for combat, as long as the burial would not displace another veteran or servicemember and it is limited to servicemembers who have no dependents.

IN HONOR AND REMEMBRANCE OF LENA T. HUGHES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of the beloved Lena T. Hughes, devoted wife, mother, grandmother, great-grandmother, sister and friend.

Mrs. Hughes' family was the foundation and joy of her life. She was the wife of the late Patrick Gilbert Hughes, with whom she created a loving home and raised three daughters, Rose, Lynne and Mary Jo. Their mutual devotion to family was reflected in the closeness they shared with their seven grandchildren and three great-grandchildren.

Mrs. Hughes created a warm and inviting home for her family and friends. From never missing special events in the lives of her children and grandchildren, to preparing wonderful meals for family gatherings, her priority was always her family.

Madam Speaker and colleagues, please join me in honor of Mrs. Lena T. Hughes, whose joyous spirit and love for others will exist forever within the hearts and memories of those who knew her best—her family and friends. I extend my deepest condolences to her daughters; her son-in-law, Timothy; her seven grandchildren and three great-grandchildren; her sister, Anne; and to her many friends. Mrs. Hughes will be remembered always.

CELEBRATING THE SUNNYVALE PECAN HARVEST FESTIVAL AND HONORING PECAN QUEEN LEONA FISCHER

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HENSARLING. Madam Speaker, today I am pleased to recognize the Sunnyvale Pecan Harvest Festival and the first ever Sunnyvale Pecan Queen.

The Sunnyvale Pecan Harvest Festival was a vision of Sunnyvale Chamber of Commerce Chairman Terry Reid and has been brought to fruition through her tremendous efforts, as well as that of other Chamber members, local businesses and the Town of Sunnyvale. This festival is the first of its kind in Sunnyvale and is sure to be a popular community event for years to come.

A festival would not be complete without a Queen, and Sunnyvale has chosen a wonderful lady to serve as the first ever ''Pecan Queen.'' Ms. Leona Fischer has been a resident of Sunnyvale for more than 40 years and continues to contribute to her community as much today as she did when she first moved there. As the director of the Douglas and Michael Kindergarten and Day School, Ms. Fischer would bring the children attending the school out to her property in Sunnyvale for camping, swimming and fishing. When she moved to Sunnyvale permanently, Ms. Fischer and her husband started antique and real estate businesses and continued to contribute to their community.

While her antique shop has since closed, Ms. Fischer can still be seen around Sunnyvale, running her real estate business. Ms. Fischer makes towns like Sunnyvale a great place to live and work, and I am proud to represent Ms. Fischer and congratulate her on this well-deserved honor.

With a Classic Custom Car and Truck show, live music performances—including a special guest appearance by Grammy winner Art Greenhaw and the awarding of the ''Beth Bassett Music Achievement Award''—the baking and photo contests and the food and shopping opportunities, the First Annual Sunnyvale Pecan Harvest Festival is sure to be an outstanding event for the families of Sunnyvale.

Madam Speaker, on behalf of the Fifth District of Texas, I am privileged to recognize Terry Reid, Leona Fischer, the Sunnyvale Chamber of Commerce and the town of Sunnyvale for all their hard work and dedication. I wish them great success.

RECOGNIZING THE SIGNIFICANT ANNIVERSARIES OF THE CZECH REPUBLIC AND SLOVAKIA

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. CLEAVER. Madam Speaker, I rise today to recognize the anniversary of two U.S. allies. Twenty years ago, during the month of November 1989, the country then known as Czechoslovakia freed itself of communist control, instituted democratic elections and set out to adapt its command economy to the free market. From what many refer to as the ''Velvet Revolution of 1989'' or the ''Gentle Revolution,'' Czechoslovakia peacefully became two democratic countries by mutual consent: the Czech Republic and Slovakia on January 1, 1993. The Velvet Revolution or the Gentle Revolution, if you wish, opened the way for democracy and prosperity for the people of the former Czechoslovakia.

During their brief history as independent nations, both the Czech Republic and Slovak Republic garnered worldwide respect with their admittance into the European Union, the North Atlantic Treaty Organization (NATO) and the United Nations. They have further solidified their commitment with their military units participating in NATO missions throughout the globe.

The Czech Republic has a local tie to its NATO admission with Missouri's Fifth District. The documents of admission were signed at the Truman Presidential Library in Independence, Missouri. We are honored to have H.E. Peter Burian, Ambassador of the Slovak Republic to the U.S. and Daniel Kostoval, Deputy Chief of Mission from the Embassy of the Czech Republic in Missouri's Fifth District from November 5–7, 2009 to celebrate the birth and growth of two allied nations. Amongst their many activities with our local Czech-American and Slovak-American communities, the visiting dignitaries will lay a wreath at President Truman's grave on Friday, November 6th to commemorate their NATO affiliations.

Madam Speaker, please join me in expressing our heartfelt congratulations to the Czech Republic and Slovakia for their relentless efforts in extending goodwill and democratic principles, not only within their borders, but to the global community including the Fifth Congressional District of Missouri. I urge my colleagues to please join me in expressing our appreciation to two nations who continue to evolve in the democratic tradition.

PERSONAL EXPLANATION

HON. PAUL C. BROUN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. BROUN of Georgia. Madam Speaker, on rollcall No. 832—H.R. 1168, the Veterans

Retraining Act of 2009, on rollcall No. 833—H. Res. 291, Recognizing the crucial role of assistance dogs in helping wounded veterans live more independent lives, and on rollcall No. 834—S. 509, A bill to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, had I been present, I would have voted "yea."

PERSONAL EXPLANATION

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. NUNES. Madam Speaker, on the legislative day of Wednesday, November 4, 2009, I was unavoidably detained and was unable to cast a vote on a number of rollcall votes. Had I been present, I would have voted:

Rollcall 841—"nay."
Rollcall 842—"noe."
Rollcall 843—"yea."
Rollcall 844—"yea."
Rollcall 845—"aye."
Rollcall 846—"aye."
Rollcall 847—"noe."
Rollcall 848—"noe."
Rollcall 849—"noe."
Rollcall 850—"aye."
Rollcall 851—"noe."
Rollcall 852—"yea."
Rollcall 853—"yea."
Rollcall 854—"yea."
Rollcall 855—"yea."

RECOGNIZING DR. SHEILA O'SHEA KAHRS

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. LINDER. Madam Speaker, it is with great honor and enthusiasm that I rise today to recognize Dr. Sheila O'Shea Kahrs, the Principal of Haymon-Morris Middle School in Winder, Georgia, who has been named the 2010 MetLife/National Association of Secondary School Principals, NASSP, National Principal of the Year.

The MetLife/NASSP National Principal of the Year program honors distinguished middle level and high school principals who have provided first-rate learning opportunities for students and made significant contributions to the education profession.

Each state, the District of Columbia, and the Department of Defense Education Activity selects one middle level and one high level school principal to represent them. From these individuals, six finalists are chosen as candidates for the National Principal of the Year award. Dr. Kahrs distinguished herself from these outstanding educators and was chosen as the 2010 MetLife/NASSP National Principal of the Year.

The Seventh District of Georgia is privileged to have such an accomplished educator serving our children. Extending my sincerest thanks to Dr. Kahrs for all her hard work and dedication to the profession of teaching, I wish her the best on her future endeavors.

INTRODUCTION OF H.R. 4027, THE AMERICAN TAXPAYER AND WESTERN AREA POWER ADMINISTRATION FIRM POWER CUSTOMER PROTECTION ACT

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HASTINGS of Washington. Madam Speaker, as Ranking Republican of the House Natural Resources Committee, I am today introducing legislation to protect American taxpayers and existing customers of the Western Area Power Administration, WAPA. It is called the "The American Taxpayer and Western Area Power Administration Firm Power Customer Protection Act." I'm pleased that TOM MCCLINTOCK, the Ranking Republican on the Water and Power Subcommittee, is joining me in sponsoring this bill.

Earlier this year, the Democrat Majority passed the American Recovery and Reinvestment Act, which is better known as the stimulus spending bill. Many of the new programs in this law were never debated beforehand and were inserted behind closed doors without transparency or an opportunity for Members of Congress or the American people to review and scrutinize them.

Included among these new programs was WAPA's Transmission Infrastructure Program's borrowing authority. This new $3.25 billion borrowing authority allows the WAPA Administrator to provide loans to develop new transmission aimed solely at integrating renewable energies. As some envisioned, the loans would be mainly given to private wind and solar developers for transmission investments. This new borrowing authority is quite unlike the Bonneville Power Administration's, BPA, longstanding borrowing authority, which can be used for integrating all generation sources, as well as for fish and wildlife mitigation and conservation efforts.

Madam Speaker, there is another key difference between the two borrowing authorities and it's one that my legislation directly addresses: the risk of a bailout funded by American taxpayers. The actual WAPA statute describes it best: "If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven." This means that American taxpayers will foot the bill for any outstanding balances on a project that cannot be repaid. This would be similar to a homeowner defaulting on a 30 year loan and having the bank pick up the remaining balance, except that the taxpayer would end up paying for the bad investment. BPA, which proudly boasts about repaying its debts with interest and ahead of schedule, does not have a similar taxpayer bailout provision in its borrowing authority. I might also add that the Tennessee Valley Authority repays its debt with interest as well.

To date, WAPA has announced one project under the borrowing authority: a wind transmission project owned by a Canadian company. Under the taxpayer bailout provision, if this project failed, then the American taxpayer would have to bail out a foreign company for up to $161 million.

It is also important to recognize that some of WAPA's existing customers, who are theoretically not impacted by this program, remain concerned that they will now bear some costs even if they do not benefit due to the lack of defined rules and regulations to govern the borrowing authority. It's critical that the principle of "beneficiaries pay" is maintained and not undermined. It is not the responsibility of those who may not benefit from a project, or the federal taxpayers, to fund such projects. Those who build and benefit from a project must bear its full costs.

For these reasons, I am introducing this legislation to amend WAPA's borrowing authority to both add protections for existing customers and to eliminate the taxpayer bailout provisions. I hope for this action on this bill.

HONORING SISTER REPARATA FAUBERT, OP

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. KILDEE. Madam Speaker, I ask the House of Representatives to join me in congratulating Sister Reparata Faubert, OP as she celebrates 60 years as a member of the Dominican Sisters of Grand Rapids. An open house will be held in her honor on November 8 in Flint Michigan.

A native of St. Charles, Michigan, Sister Reparata was taught at Holy Family School by the Dominican Sisters of Grand Rapids. At the age of 18 she entered the congregation and professed her vows. This was followed by years of teaching high school and working on her education. Sister Reparata obtained a BA from Aquinas College, an MA from the Theological Institute in Saginaw, and a second MA from Cardinal Stritch College.

After completing a CPE program at the University of Michigan Medical Center in Ann Arbor, Sister Reparata began working as a hospital chaplain for the 3 public hospitals in Flint. Her gentle, serene thoughtfulness to patients, families and hospital staff brings solace and hope to persons facing difficult, heartwrenching events. With the grace that comes from the Eucharist, the Office and the Rosary, Sister Reparata visits the sick and passes on the spiritual blessings.

St. Dominic's life mission was to Praise, to Bless and to Preach and in 1206 he lead 12 women into religious life. They became the first Dominican Sisters Convent and Sister Reparata is part of the line of women that has taken the same vows and served Our Lord, Jesus Christ, with the same joy, stretching back to that first group. She embodies the part of Dominican Life that calls its adherents to be open to encountering the Holy in all people.

When asked to comment on the past 60 years as a member of the Dominican Order, Sister Reparata recalled John 14:23: "If you do the will of My Father, we will come to you and make our abode with you." It is this humble submission to God's will that has endeared Sister Reparata to everyone that knows her.

Madam Speaker, I ask the House of Representatives to join me in applauding Sister Reparata as she celebrates this milestone The Flint area has truly been blessed by God for allowing her to work with us. I pray that He will continue to bless us with Sister Reparata's compassion and kindness for many, many years to come.

LIEUTENANT ADAM W. BRYANT

HON. THOMAS S. P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. PERRIELLO. Madam Speaker, today I recognize Lieutenant Adam W. Bryant of the United States Coast Guard, who went missing in a helicopter collision over the Pacific Ocean on October 29, 2009, along with eight fellow Coast Guard officers. My heart goes out to his parents, Jerry and Nina Bryant, his brother Ben, and all of those who knew and loved Adam. He is sorely missed by his friends, family, community, and fellow servicemembers.

Adam was a graduate of Kenston Forest School in Blackstone, Virginia, and the United States Coast Guard Academy. After completing his mandatory enlistment, he continued his service in the Coast Guard. He had served for 10 years. His family has described him as an intelligent, talented young man who knew from an early age that his calling was service to his country. I know that many will feel his loss deeply, for his accomplishments, his potential, and his role as a loving son, brother, grandson, and nephew. On behalf of Virginia's 5th District, I offer Adam's family my sincerest condolences and thank them for Adam's years of courageous and devoted service.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Ms. LEE of California. Madam Speaker, today I missed rollcall vote No. 841, on a motion ordering the previous question on the rule for H.R. 3639, The Expedited CARD Reform for Consumers Act of 2009. Had I been present, I would have voted ''aye'' on this rollcall vote.

THE AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2009

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mrs. McMORRIS RODGERS. Madam Speaker, I rise today in strong support of H.R. 3276, the American Medical Isotopes Production Act of 2009. Currently a vast majority of our nation's critical supply of medical isotopes are imported from Canada and the Netherlands. Yet, unforeseeable and unpreventable disruptions and delays in obtaining the isotopes has severely impacted nuclear medical procedure throughout the country.

The American Medical Isotopes Production Act will enable research institutions, like Washington State University in my district, that already have reactors capable of producing low enriched uranium to supply a significant portion of U.S. demand for molybdenum-99 and other medical isotopes. The domestic production of moly-99 will ensure that facilities such as WSU can store isotopes necessary to continue treatment and early detection programs for cancer, heart disease, and thyroid disease.

Madam Speaker, this bipartisan bill not only will lower the cost and improve medical treatments here at home but it will be a significant step in reducing the United States reliance on foreign energy. The American Medical Isotopes Production Act is a fiscally responsible measure that makes the United States safer, more independent, and will provide hospitals across the country with the resources they need to continue to provide the best healthcare in the world. I urge my colleagues to support H.R. 3276, the American Medical Isotopes Production Act of 2009.

HONORING HARRISBURG MASONIC LODGE #325 A.F. & A.M.

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. SHIMKUS. Madam Speaker, I rise today to honor the Harrisburg Masonic Lodge #325 A.F. & A.M. in Harrisburg, Illinois upon the dedication of their new facility on November 7, 2009. Additionally, I wish to congratulate them on their 150th anniversary.

The Harrisburg Lodge #325 was granted a charter by the State of Illinois Grand Lodge on October 5, 1859. The charter members were: Green Berry Raum, Worshipful Master; Moses P. McGehee, Senior Warden; Richard N. Warfield, Junior Warden; Benjamin Bruce, Treasurer; John W. Mitchell, Secretary; John S. Eubanks, Senior Deacon; Harvey R. Pearce, Junior Deacon; William G. Sloan, Senior Steward; Charles Nyberg, Junior Steward and Charles A. Towle, Tiler.

Born in Golconda, Illinois, Green Berry Raum led a life of continued service, was a member of the 40th Congress. Mr. Raum practiced law in Harrisburg, Illinois; served in the Union Army during the Civil War as a major in the Fifty-sixth Regiment, Illinois Volunteer Infantry and served in the 40th Congress.

Richard C. Davenport of Harrisburg Lodge #325 A.F. & A.M. became the Grand Master Mason of Illinois, overseeing all Masons in the state. His tenure in that position lasted from 1925 to 1926 and then served as Grand Secretary from 1928–1960. During his term, The Grand Lodge Secretary's office was in the Harrisburg Masonic Lodge, located on North Main and Walnut Streets.

The 2009 officers include Terry Mott, Worshipful Master; Don Leibenguth, Secretary; Richard D. Harper, Treasurer; Bruce Tolley, Senior Warden; Mark Mathis, Junior Warden; Mack Farmer, Senior Deacon; Raymond Gunning, Junior Deacon; Dave Businaro, Marshall; George Knight, Senior Steward; Kerry Jones, Junior Steward; Cameron Brown, Tiler and Lyndel Alexander, Chaplin.

I am pleased to recognize the Harrisburg Masonic Lodge #325 A.F. & A.M. on this special occasion. I extend my best wishes for an enjoyable rededication and grand opening.

OPPOSING ANY ENDORSEMENT OR FURTHER CONSIDERATION OF REPORT OF THE UNITED NATIONS FACT FINDING MISSION ON THE GAZA CONFLICT

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Ms. WASSERMAN SCHULTZ. Madam Speaker, I am proud to be a cosponsor of this essential Resolution, unequivocally opposing any endorsement or further consideration of the Report of the United Nations Fact Finding Mission on the Gaza Conflict.

The United Nations report on the conflict in Gaza is reflective of the original mandate ordering its creation: biased and one-sided. Like all sovereign nations, Israel has not only a right, but moreover, an obligation, to ensure the safety and security of her citizens. Israel's military operation was in response to 8 years during which Hamas terrorists fired more than 10,000 rockets, mortars and missiles at Israeli towns and villages.

Despite these facts, and due to the original mandate that precluded it from drafting an objective report, the Commission concluded that Israel's defensive operation was a war on Gaza's civilian population. This claim is an outright distortion of the truth.

Throughout the Gaza Conflict, Israel went above and beyond—even putting itself at risk—to protect innocent Palestinian civilians. Specifically, Israel dropped leaflets and made phone calls to targeted Palestinian areas to warn citizens they were in danger, even if that meant losing the element of surprise and putting the lives of its own soldiers at risk.

This report ignores evidence that many civilian casualties were a result of Hamas routinely using Palestinian civilians as human shields. Eyewitness testimonies, video and Israeli intelligence reports show that during the operation, Hamas stored weapons in mosques, used hospitals as headquarters, and intentionally endangered Palestinian civilians.

As a member of the Congressional Taskforce on Israel at the United Nations, it troubles me to see yet another biased, unfair attack against the State of Israel. Not only is this report a disgrace to the mission of the United Nations, but it distracts us from the real issue at hand—achieving lasting peace in the Middle East. Israelis, Palestinians and the international community must not lose the focus of this important goal, and must continue working to fight terrorism and support peace.

HONORING OAKDALE IRRIGATION DISTRICT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate the Oakdale Irrigation District upon celebrating its 100th anniversary.

In 1853 miners built a small diversion dam off of the Stanislaus River, upstream from Knight's Ferry, and began digging a canal along the right bank of the river to their gravel

works in Knight's Ferry. In the late 1850s, David Locke built a flour mill at Knight's Ferry. The mill was destroyed by a flood in 1862, but was rebuilt by David Tulloch in 1866. Charles Tulloch, David's son, assumed management of the mill and purchased the miner's canal and water rights so he could extend the canal and sell the water to irrigate six thousand acres near Oakdale and Valley Home.

In 1887, the Wright Irrigation Act was approved by the California State Legislature and signed into law, giving water districts eminent domain rights, authority to issue bonds and to tax properties for the construction, maintenance and operations of irrigation works. In 1890, the Oakdale Irrigation Company began to work on an eleven mile long canal near Knight's Ferry. A few years later the Stanislaus Power and Water Company, headed by Mr. Tulloch, took over the irrigation company works. In 1909, Oakdale citizens held a town hall meeting to demand their own irrigation system; the land was surveyed and the district boundaries were established. With this completed, the Stanislaus County Board of Supervisors authorized an election in Oakdale; the people voted 849 to 27 to create the Oakdale Irrigation District. On November 1, 1909, the Oakdale Irrigation District, OID, was formally established.

In 1910, the OID partnered with the South San Joaquin Irrigation District (SSJID) to jointly purchase the ''Tulloch System'' for six hundred and fifty thousand dollars. The two districts agreed on equal water rights, totaling over nine hundred second-feet of natural flow diversion. Since 1912, the OID and the SSJID have jointly constructed five dams on the Stanislaus River. The first was Goodwin Dam constructed at a cost of $325,000.

The Melones Dam was completed in 1926, providing 112,500 acre-feet of water storage. Completed in 1957, the Tri-Dam project, including the Donnells, Beardsley and Tulloch Dams, added 230,400 acre-feet of storage capacity to the watershed and a combined power generation capacity of eighty-one thousand kilowatts. Along with these storage facilities the OID built approximately three hundred and fifty miles of canals and laterals to supply water to users throughout the district. Completed in 1984, the Sand Bar Hydroelectric powerhouse added over sixteen thousand kilowatts of power for the district.

In 2004, the OID launched a major Water Resource Plan to study means to repair, rebuild, and modernize the old and outdated system. The plan's overall goal was to protect the OID's water rights while enhancing the system and improving services. The Plan has led to major rehabilitation efforts that continue today.

Madam Speaker, I rise today to commend and congratulate the Oakdale Irrigation District on 100 years of development and service within its region. I invite my colleagues to join me in wishing the Oakdale Irrigation District many years of continued success.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. ABERCROMBIE. Madam Speaker, I regret that I missed rollcall votes Nos. 832–841. Had I been present, I would have voted ''yea'' on rollcall votes 832–837 and votes 839–841. On rollcall vote No. 838, I would have voted ''nay.''

AVA SUZANNE CULVER MAKES HER MARK ON THE WORLD

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. ETHERIDGE. Madam Speaker, I rise today to congratulate Chad and April Culver on the birth of their daughter, Ava Suzanne Culver. Ava was born yesterday, Wednesday, November 4, 2009. She weighed 7 pounds and 14 ounces and measured 22 inches long. My wife Faye joins me in wishing Chad and April, and Avery's grandparents Durwood and Vickie Stephenson, great happiness upon this new addition to their family.

As the father of three, I know the joy and pride that Chad and April feel at this special time. Children remind us of the incredible miracle of life, and they keep us young at heart. Every day they show us a new way to view the world. I know the Culvers look forward to the changes and challenges that their new daughter will bring to their lives while taking pleasure in the many rewards they are sure to receive as they watch Ava grow.

I welcome young Ava into the world and wish Chad and April all the best.

TRIBUTE TO JOHN OVERINGTON

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mrs. CAPITO. Madam Speaker, I rise today to honor John Overington as he becomes the first member to reach 25 years of service in the West Virginia House of Delegates.

First elected to represent the 55th District of West Virginia in 1984, John has spent the past 25 years working tirelessly to address the needs of Berkeley County. He has become revered for his public service while successfully bringing results through his leadership and involvement with numerous community organizations. Working on many vital pieces of legislation, John has assured that the best interests of West Virginia are at the forefront.

John is involved in countless organizations and has received several recognitions for his efforts, including Martinsburg-Berkeley County Chamber of Commerce Outstanding Chairman Award in 1988. I know his involvement in the Bedington Ruritan Club is very special to him, where his passionate support has helped achieve fellowship, goodwill, and community service in the area.

It is an honor to congratulate such a distinguished public servant for his years of service and contribution to Berkeley County and the State of West Virginia. I'm proud to call John a friend and fellow West Virginian.

IN HONOR OF BILL POOLE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. HUNTER. Madam Speaker, many years ago on a high mountain lake, two young boys were catching trout from a small rowboat, using corn kernels for bait. The ''captain'' of this ten-foot boat was a wiry, older guy with an ageless face and a direct manner. He was all business.

''Keep your rod tip up. You're hooked into a monster,'' he commanded. The boy let out a whoop as the ''monster,'' a twelve-inch rainbow trout, broke the surface of the lake.

That boy was me. The other boy was my brother Sam, who is now serving in Iraq.

The captain of the rowboat was Bill Poole who, on this and other occasions, made life very exciting for us. Sadly, Bill lost his battle with cancer last month.

After our first experience together, I would learn that Bill was a legendary outdoorsman and sport fishing captain, whose ''monsters'' were fish that weighed in at hundreds of pounds, whose fishing trips were 1,000 mile sojourns, and whose boats were the standard for the sport fishing industry.

But on that day, Bill was exhibiting the quality that made so many San Diegans and outdoorsmen from around the world want to be near him. He radiated outdoor excitement and anticipation. Bill Poole was fun. For us kids, his mock sternness would half-frighten us and then melt into a big smile as he showed us ''the right way to do it.''

Bill represented the fabulous outdoor dimension of our San Diego community. Early on he recognized the treasure that the fishing grounds of California and Baja California offered to outdoorsmen who wanted their fishing trip to be a real adventure. He was the father of long-range sport fishing in San Diego. His talent for finding big fish was legendary. His integrity was stainless, and his personality pulled people of all ages to him like a giant magnet.

One of those people was his wife Ingrid. A combination of beauty and purpose, she shared Bill's life on a thousand outdoor adventures around the world. Together, and with thousands of adventurous San Diego friends, they made the Safari Club a wellspring of conservation and outdoor fun.

When the Hunter family was going on a hunting trip, Dad would always make a swing by Bill's house to ''borrow'' equipment. Bill would ladle out gear and advice on our upcoming outing, interspersed with comments like ''I'll never see this again.'' Then he and Dad would laugh. The gear would eventually make it back to Bill's garage.

A new generation is charged with stewardship of the magnificent outdoors resource that we call America. It's our job to keep our waters and land full of game and fish. As important, it's our job to keep our wonderful resource open for enjoyment by our citizens and their kids. Let's remember that enjoying that resource was Bill's legacy, so that a hundred years from now, a small boy can bring in a 12-inch ''monster'' rainbow trout under of the encouragement of people just like Bill Poole.

INTRODUCTION OF THE PUGET SOUND RECOVERY ACT OF 2009

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. DICKS. Madam Speaker, today I am introducing the Puget Sound Recovery Act of 2009.

One of the iconic physical features of my home state is Puget Sound. It is a keystone of our identity in Washington State. In a region known for its beauty, Puget Sound is beyond comparison.

But the postcard image of Puget Sound belies the fact that it is in decline. Over the last 20 years we have seen increasing signs that water quality is deteriorating. We are experiencing low-oxygen zones in a growing number of areas within Puget Sound. Many of our most cherished aquatic species are in trouble with salmon and Orcas listed under the Endangered Species Act. At this point, nearly three-quarters of our original estuaries and wetlands are gone. And as a toxic remnant of its more industrialized past, the bottom of the Sound has many thousands of acres of extreme contamination.

Even with this decline, the Sound remains a natural wonder, and my legislation will provide an increased Federal role to reverse the deterioration. Its 2,800 square miles of inland marine waters makes Puget Sound the Nation's second largest estuary after Chesapeake Bay. There is a strong marine and natural resource industry. The bounty of the Sound includes several hundred fish species, plentiful shellfish and shrimp, 25 different marine mammals and 100 different species of sea birds.

Several years ago, the State of Washington led by Governor Gregoire recognized the dire condition of Puget Sound. In response, the Puget Sound Partnership was set up to lead the state effort to restore the Sound. The Partnership developed the Puget Sound Action Agenda which was recently approved by the EPA as the Comprehensive Conservation Management Plan. This Action Agenda will serve as the blueprint that local and state government, Tribes, and federal agencies will follow in this cooperative effort to restore Puget Sound. In tandem with these efforts occurring in Washington State, the Interior Appropriations Subcommittee which I chair has approved increasing amounts of funding for Puget Sound in the annual EPA budget. For FY 2010, I am proud that the EPA budget contains $50 million for Puget Sound. President Obama signed this spending bill into law on October 30th.

The Puget Sound Recovery Act of 2009 sets up an EPA office in Washington State to coordinate the federal effort to implement the Action Agenda. The other Federal agencies that are involved in the cleanup include the Fish and Wildlife Service, the Park Service, the Forest Service and the Natural Resources Conservation Service within the Department of Agriculture, the United States Geological Survey, the Army Corps of Engineers, and the Departments of Commerce, Defense, Homeland Security and Transportation. In addition, this bill authorizes grants to study the causes of the Sound's declining water quality and ways to counter these threats, as well as grants for sewer and stormwater discharge projects.

I am pleased that the 6 Washington State Delegation Members whose districts surround the Puget Sound are original cosponsors of this legislation.

Madam Speaker, the Puget Sound Recovery Act of 2009 is an important step to authorize the federal role in the cleanup of this important water body.

CHERYL ANDERSON PEGUES ON THE OCCASION OF HER RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Ms. DELAURO. Madam Speaker, it is with great pleasure that I rise today to join the many family, friends, and colleagues who have gathered to pay tribute to an outstanding member of our community and my good friend, Cheryl Pegues, as she celebrates her retirement. A dedicated professional, volunteer, mentor and friend, Cheryl has earned the respect and admiration of those throughout our community.

Cheryl has been a member of the Administration at Gateway Community College in New Haven, Connecticut for more than two decades. She spent 18 years as the Director of Financial Aid, a year and a half as Acting Dean of Students, and, today, is retiring from the position of Director of Student Development and Services. Prior to her move to Gateway, she served as Assistant Director of the Connecticut Talent Assistance Cooperative-Education Opportunity Center—a federal TRIO program where she also served as an education counselor. As you know, TRIO programs are educational opportunity outreach programs designed to motivate and support students from disadvantaged backgrounds.

Throughout her professional career, Cheryl sought to assist young people in their endeavors to further their education. Many of those she worked with would not have otherwise benefitted from a college education. Education is the cornerstone of success and today, more than ever before, our young people are facing weighty challenges as they try to pursue a college degree—and those challenges are even larger for disadvantaged children. Cheryl's work has opened the doors of opportunity for countless young people and made all the difference in their lives.

Cheryl's interest in enriching the lives of young people extends far beyond her professional life. Over the years she has been an active member of the Board of Directors of the Latino Youth Development, the Education Support Services program, the Children in Crisis Coordinating Committee, and the Urban Improvement Corps. Cheryl served on the original Martin Luther King, Jr. Youth Conference Committee and has organized financial aid workshops and college orientation seminars upon request from local high schools, churches, as well as civic and service organizations.

In addition to all of this, Cheryl still finds the time to serve as a Deacon and active parishioner at Immanuel Missionary Baptist Church. She also served as a member of numerous professional organizations including the Theta Epsilon Omega Chapter of Alpha Kappa Alpha Sorority, the National Council of Negro Women, the Greater New Haven Chapter of the NAACP, and the New Haven Chapter of the Jack and Jill of America, Inc. Her invaluable contributions have left an indelible mark on our community and I have no doubt that Cheryl will continue in her work to enrich the lives of young people and make our community a better place to live, learn and grow.

Today, as she celebrates her retirement from her professional life, I am proud to join her husband, Elbert, her children, Elbert and Elicia, and her granddaughter, Kaila, as well as the many family, friends, and colleagues in extending my sincere congratulations to Cheryl Pegues. Her extraordinary professional career and infinite generosity touched the hearts and minds of many. I wish her all the best for many more years of health and happiness.

HEALTH CARE

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. BISHOP of New York. Madam Speaker, 4-1/2 decades ago on this very floor, Congress debated legislation closely related to the bill we will consider later this week.

It is said that history is destined to repeat itself, especially when we repeat ourselves. So listen to these statements from the predecessors of my friends in the minority when they debated the bill creating Medicare.

Their arguments sound very familiar—some strikingly similar—to the comments we've been hearing about the Affordable Health Care for America Act:

Quoting Representative Durwood G. Hall, a Republican congressman from Missouri, who happened to also be a medical doctor:

> Mr. Speaker, the basis of quality medical care is the voluntary relationship between the doctor and patient. This would begin to disappear as the Government supplants the individual as the purchaser and provider of health services . . .
>
> Are we to tell the people of America, the senior citizens, that they are not capable of determining this matter . . .
>
> The result will inescapably be third-party intrusion into the practice of hospitalization and medicine. The physician's judgment would be open to question by others, not responsible for the patient's wellbeing . . .

Congressman Hall went onto say:

> . . . Its adoption would be another downward step toward of loss of freedom of choice.
>
> Consequently, we cannot stand idly by now, as the Nation is urged to embark on an ill-conceived adventure in Government medicine, the end of which, no one can see, and from which the patient is certain to be the ultimate sufferer. For make no mistake about it: The medical profession will never deprive the people of high-quality medical care and the fruits of progress of medical science. That will come when the Government begins meddling and interfering with medical freedom.

Quoting Edward Derwinski, a Republican congressman from Illinois, who made similar arguments:

> As we look into the future, we see clear signs of rigid governmental control of our

medical system which can only be detrimental to all our citizens. At the risk of oversimplification, may I state that this bill is a sugar-coated pill that is being swallowed in an easy fashion, but its ill effects will be felt in the ultimate crippling of our medical services and unwarranted regressive tax burden on our citizens.

Quoting Congressman Thomas Curtis, also from the state of Missouri, who has this to say:

What we have done is to take a system that has proved successful for 85 percent of our people, including our older people, in order to solve the problems of the 15 percent.

These arguments were made by Republicans while debating the Social Security Amendments of 1965, commonly known as Medicare—the bill that became law and responsible for the program that has treated and cared for tens of millions of American seniors with the medical care they need,

It is striking but not all too surprising that the Grand Old Party is using the same old arguments on the other side of the aisle today.

I doubt there is any member in this chamber today who would reasonably argue that Medicare has not benefited our Nation. Do they think insurance companies would step in to cover a 75-year old cancer patient if it were not for Medicare?

Madam Speaker, the specter of a government takeover of health care has been part of the Republican playbook for nearly 45 years. It wasn't true then and it isn't true now.

Medicare is the life blood of today's seniors. It put the 'great' in LBJ's Great Society. History is destined to repeat itself—not just the mistakes, but the triumphs as well.

HONORING THE LATE ANTHONY T. KAHOOHANOHANO ON BEING AWARDED THE MEDAL OF HONOR

HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Ms. HIRONO. Madam Speaker,I would like to recognize the late Anthony T. Kahoohanohano for his extraordinary heroism while serving during the Korean War. Private First Class Kahoohanohano's service was recently acknowledged with our Nation's highest award of merit, the Medal of Honor.

I am grateful to my colleague Senator AKAKA for inserting a provision in this year's defense authorization bill that awards the Medal of Honor to Mr. Kahoohanohano and to President Obama for signing the bill into law.

Awarding the Medal of Honor to Anthony Kahoohanohano has long been overdue. A 19-year-old soldier from Wailuku on the island of Maui, Kahoohanohano bravely sacrificed his own life to protect fellow soldiers in the area of Chupa-ri, Korea on September 1, 1951.

After ordering members of his machine-gun squad to take up more secure positions to provide cover as U.S. forces withdrew, Kahoohanohano bravely stayed behind to fight the enemy on his own, even fighting in hand-to-hand combat after he ran out of ammunition. He was killed in action, but his courageous actions inspired other American troops to launch a counterattack against the enemy.

On behalf of Anthony Kahoohanohano's family and the State of Hawaii, and in honor of the service and sacrifice of our servicemembers and veterans, I thank my colleagues for supporting this measure.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was $11,978,953,722,825.90.

On January 6, 2009, the start of the 111th Congress, the national debt was $10,638,425,746,293.80.

The national debt has increased by $1,340,527,976,532.10 so far this year.

According to the non-partisan Congressional Budget Office, the forecast deficit for this year is $1.6 trillion. That means that so far this year, we borrowed and spent $4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

COMMENDING WOODBRIDGE TOWNSHIP'S SALUTE TO OLD GLORY PROGRAM

HON. LEONARD LANCE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. LANCE. Madam Speaker, I rise today to address the House for one minute.

On Wednesday, November 11, Veterans' Day, there will be a special celebration entitled a Salute to Old Glory in Woodbridge Township, New Jersey. The goal of the program is to refurbish all American flags and flag poles throughout the Woodbridge Township School District. This is a huge undertaking; Woodbridge Township is the largest municipality in New Jersey's Seventh Congressional District.

A Salute to Old Gory began is a vision of Woodbridge Board of Education Member George Yuhasz, a lifelong resident of Woodbridge Township. With the help of community activist Charlie Shaughnessey of Colonia, New Jersey the program to replace and preserve American flags throughout the Township has become a huge success.

Veterans as well as civic organizations have joined in this effort in making Salute to Old Glory a positive initiative throughout the community.

The American Flag stands for many things in our beloved Nation. It also serves as a great inspiration for those who want to become part of our great democracy.

Educational involvement incorporated into the program included student essays and artistic presentations that allowed for involvement of students throughout the school district.

The program has been successful because it has been a total community effort. In fact, Salute to Old Glory will become an ongoing effort not only for the Woodbridge Board of Education but for all public buildings in Woodbridge Township that may need a replenishment of an American flag or flagpole.

All of those involved in with the Salute to Old Glory program in Woodbridge Township should be commended for their efforts.

I am pleased to share their hard work with my colleagues here in Congress and with the American people.

OPPOSING ANY ENDORSEMENT OR FURTHER CONSIDERATION OF REPORT OF THE UNITED NATIONS FACT FINDING MISSION ON THE GAZA CONFLICT

SPEECH OF

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 3, 2009

Ms. MOORE of Wisconsin. Madam Speaker, I am disappointed that we have gotten to the point that the House even has to consider this resolution before us this week. I am inclined to vote for this resolution but not without reservations.

My vote for this resolution should not be read either as an endorsement of Operation Lead Cast or as an endorsement of the position that investigations of serious allegations of war crimes should not be undertaken.

We cannot act as if the devastating war in Gaza in January did not have consequences for Palestinians, Israelis, and the international community. We cannot and should not brush aside legitimate allegations about abuses committed by both sides during this conflict. Yet, now more than ever, we also need to intensify efforts to resolve the very serious issues that had unfortunately led to many needless deaths and continuing tensions and may continue to do so if we let the status quo linger.

I have reservations that the resolution before the House this week would do nothing to defuse the demagoguery that has long plagued the Middle East and to help steer us to a future devoid of more rocket attacks or violence in the region.

Ten months after the ''cessation'' of overt fighting in Gaza, tensions remain high and both the Palestinian and Israeli people continue to live with tremendous insecurity and fear. I am dismayed that it appears to be only a matter of time until the endless cycle of violence repeats itself again along with the resumption of increased misery for innocent Israeli and Palestinian men, women, and children in the region. We as a Congress, at this point, would be better served by trying to support efforts to reinvigorate the peace process, defuse these mounting tensions, and pressing both parties to meet at the negotiating table.

Nonetheless, the Goldstone report includes some very serious charges relating to possible war crimes or other crimes against humanity committed by Israel, Hamas, and other Palestinian armed groups. To give just one example, there are allegations of deliberate and premeditative efforts to target a wastewater treatment plant—that did not have any link to ''Palestinian armed groups or any other effective contribution to military action''—sending over 200,000 cubic meters of raw sewage onto farmland. What is lacking in this report is a full and complete accounting of the reckless, indiscriminate, and ongoing use of rockets by

Hamas and other groups to target innocent civilians in Israel. Such a report cannot shortchange such an effort because doing so allows those seeking to score political points—rather than seeking peace, stability, and accountability—to hijack this process.

Again, the breadth and gravity of these charges demand that these ''facts'' be established in a comprehensive and fair way. Yet, even our own State Department—which has been actively engaged in pursuing peace in the region and urging both sides to move that process forward—has raised concerns about both the mandate for the report as well as the report itself, noting ''serious concerns about the report's unbalanced focus on Israel, its sweeping factual and legal conclusions, and many of its recommendations.'' I am not saying that there should not be a serious and comprehensive finding of fact that can serve as a starting point on the road to truth and justice about what occurred on both sides. But this is not it.

The lack of a widely credible report on potential human rights abuses during the Gaza conflict is a missed opportunity to advance peace or stability in the region. It does not advance accountability. In a region with plenty of easy opportunity for division and unleashing of tensions, I believe that a more widely credible report could have been so much more useful in promoting transparency about what occurred, justice for those affected, and the prospect of a future peace for all. And it would have made this resolution on the floor this week unnecessary.

HONORING PHILLIP SHORT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Phillip Short for his dedication to his family and community. Mr. Short passed away on Sunday, September 27, 2009 at Doctors Medical Center in Modesto, California. Mr. Short was seventy-three years old.

Phillip Short was born and raised in Hughson, California and graduated from Hughson High School. He attended the University of California, Berkley where he played football and majored in engineering. After college, he returned to Hughson and began growing walnuts and almonds along the Tuolumne River for over fifty years.

Mr. Short began his political activity within his community in 1967, when he joined the Hughson Elementary School Board. He served on the board for ten years. In August, 1977 Mr. Short was appointed to the Turlock Irrigation District Board of Directors. He was elected to serve on the TID board for eight consecutive four-year terms; serving over thirty-two years. During his tenure he dealt with droughts, floods, environmental rules and the expansion of the TID electricity system between south Modesto and northern Merced County. His position with TID allowed him to oversee recreation at Don Pedro Reservoir on the Tuolumne River. Over the years, Mr. Short was also a member of the California Walnut Commission and the Federal Walnut Control Board. He served as a chairman of the export and research committees of the California Walnut Marketing Board and served as president of the Association of California Water Agencies from 1993 to 1995. In addition, Mr. Short served our nation as a United States Marine Corp reservist.

Mr. Short is survived by his wife, Kay, and five children.

Madam Speaker, I rise today to posthumously honor Phillip Short. I invite my colleagues to join me in honoring Mr. Short's life and wishing the best for his family.

SUPPORTING AND ENCOURAGING GREATER SUPPORT FOR VETERANS DAY

SPEECH OF

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 2, 2009

Mr. AL GREEN of Texas. Mr. Speaker, today, I rise in support of freedom, but specifically, I rise in support of the soldiers who have made the dream of freedom a reality for us all. As a cosponsor of H. Res. 89, which recognizes the sacrifices that are made every day by the men and women who serve in the United States Armed Forces, I am pleased the House voted this week on the final passage of this legislation.

I would also like to acknowledge Congressman JOE BACA for introducing this legislation, which commemorates the public holiday of Veteran's Day and its significance in carrying on the legacy of our living and fallen soldiers.

As a bipartisan bill, this legislation represents the unanimous recognition of the impact that the men and women of the United States Armed Forces make on our daily lives. The legislation notes the solemn cost of death that we pay for the defense of our freedom, and the importance of acknowledging the value of that cost. Every fallen soldier is an integral part of our collective American community, and a tremendous loss is sustained when a brother, a mother, a sister, a father, a child or a friend is removed from that community.

As we remember those who have given so much to our country, whose patriotism exceeds the requirement and defies the norm, we must also remember that it is our duty to provide for the needs of those heroes through programs, funding and medical services. Many of the trials that our veterans face as they return home cannot be resolved, from broken bones to the memories of the tragedy of war. However, ensuring that our veterans have a home to come home to is the least we can do for these patriotic heroes. My colleagues and I were able to accomplish that through the Homes for Heroes Act, which was passed in June of this year. This bill will establish funding for low-income veterans, and will address the issues of homelessness and mental health for our veterans who need it most.

Next week, on Veteran's Day, let us also recognize the significant contribution that military families play in the lives of our soldiers. Through their sacrifices, all of our families are afforded the opportunity of living the American Dream. I thank my colleagues for approving H. Res. 89 this week and look forward to joining with my constituents in Houston next week. As a community, we will honor the sacrifices made by our Nation's veterans.

ILLEGAL ALIEN LOOPHOLE IN PELOSI HEALTH CARE TAKEOVER

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 5, 2009

Mr. WILSON of South Carolina. Madam Speaker, on Tuesday I joined my colleagues to comb through the Pelosi health care takeover. The takeover bill weighs in at 21 pounds and is 2,000 pages long. You would think in a bill that size, we would be able to find an adequate enforcement or citizenship verification system.

Unfortunately, we did not. All we found were weak citizenship verification measures that will give illegal aliens easy access to health care benefits paid for by hard working taxpayers—with overcrowding of medical providers delaying services for legal citizens.

In an effort to close this loophole, I am going to join Congressmen NATHAN DEAL, DEAN HELLER and SAM JOHNSON to present several amendments to the Rules Committee. Our amendments will prevent American taxpayers from being forced to finance benefits for illegal aliens by adding strong enforcement and verification provisions to the Pelosi health care takeover bill.

I encourage the Rules Committee to accept our amendments to eliminate the loopholes for fraud and abuse.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism. I am grateful for the visit on Capitol Hill today by the Morristown Tea Party led by Jeff Weingarten who I visited last Sunday to encourage turnout in the New Jersey gubernatorial election Tuesday. With dedicated volunteers such as Synnove Bakke of East Brunswick, there was an historic turnout.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 2847, Commerce, Justice, Science, and Related Agencies Appropriations Act.

Senate

Chamber Action

Routine Proceedings, pages S11131–S11237

Measures Introduced: Sixteen bills and six resolutions were introduced, as follows: S. 2731–2746, S. Res. 338–342, and S. Con. Res. 47. **Page S11205**

Measures Reported:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, Fiscal Year 2010". (S. Rept. No. 111–97)

S. 1490, to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information, with amendments.

Pages S11204–05

Measures Passed:

Commerce, Justice, Science, and Related Agencies Appropriations Act: By 71 yeas to 28 nays (Vote No. 340), Senate passed 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, agreeing to the committee-reported amendment in the nature of a substitute, as amended, after taking action on the following amendments proposed thereto:

Pages S11145–86

Adopted:

Johanns Amendment No. 2393, prohibiting the use of funds to fund the Association of Community Organizations for Reform Now (ACORN).

Pages S11148, S11172

Durbin Modified Amendment No. 2647, to require the Comptroller General to review and audit Federal funds received by ACORN.

Pages S11148, S11172

Rejected:

By 36 yeas to 62 nays (Vote No. 336), Coburn Amendment No. 2631, to redirect funding of the National Science Foundation toward practical scientific research. **Pages S11148, S11169–70**

Graham Amendment No. 2669, to prohibit the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001, terrorist attacks. (By 54 yeas to 45 nays (Vote No. 338), Senate tabled the amendment.) **Pages S11148, S11155–69, S11170–71**

During consideration of this measure today, Senate also took the following action:

Pursuant to the order of Wednesday, November 4, 2009, the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the committee-reported amendment in the nature of a substitute on Tuesday, October 13, 2009, was agreed to. **Page S11145**

By 60 yeas to 39 nays (Vote No. 335), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate upon reconsideration agreed to the motion to close further debate on the committee-reported amendment in the nature of a substitute. **Page S11148**

By 42 yeas to 57 nays (Vote No. 337), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive pursuant to section 302(f) of the Congressional Budget Act of 1974, with respect to Coburn Amendment No. 2667, to reduce waste and abuse at the Department of Commerce. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee allocation was sustained, and the amendment thus fell.

Page S11170

By 32 yeas to 67 nays (Vote No. 339), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive pursuant to section 302(f) of the Congressional Budget Act of 1974, with respect to Ensign

Modified Amendment No. 2648, to provide additional funds for the State Criminal Alien Assistance Program by reducing corporate welfare programs. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee allocation was sustained, and the amendment thus fell. **Pages S11148, S11171–72**

Chair sustained a point of order against the following amendments, as being in violation of rule XVI of the Standing Rules of the Senate, which prohibits legislation on an appropriation bill, or as being non-germane post-cloture, and the amendments thus fell: **Page S11172**

Vitter/Bennett Amendment No. 2644, to provide that none of the funds made available in this Act may be used for collection of census data that does not include a question regarding status of United States citizenship. **Pages S11146–48**

Levin/Coburn Amendment No. 2627, to ensure adequate resources for resolving thousands of offshore tax cases involving hidden accounts at offshore financial institutions. **Page S11148**

Begich/Murkowski Amendment No. 2646, to allow tribes located inside certain boroughs in Alaska to receive Federal funds for their activities. **Page S11148**

Shelby/Feinstein Amendment No. 2625, to provide danger pay to Federal agents stationed in dangerous foreign field offices. **Page S11148**

Leahy Amendment No. 2642, to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits. **Page S11148**

Coburn Amendment No. 2632, to require public disclosure of certain reports. **Page S11148**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Mikulski, Inouye, Leahy, Kohl, Dorgan, Feinstein, Reed, Lautenberg, Nelson (NE), Pryor, Byrd, Shelby, Gregg, McConnell, Hutchison, Alexander, Voinovich, Murkowski, and Cochran. **Page S11186**

Cloture Motion—Agreement: A unanimous-consent agreement was reached providing that the motion to invoke cloture on the bill, be withdrawn. **Page S11148**

Federal Executive Board Authorization Act: Senate passed S. 806, to provide for the establishment, administration, and funding of Federal Executive Boards, after withdrawing the committee amendment in the nature of a substitute, and agreeing to the following amendment proposed thereto: **Pages S11233–35**

Casey (for Akaka/Voinovich) Amendment No. 2736, in the nature of a substitute. **Pages S11234–35**

Board of Directors of the Office of Compliance: Senate passed S. 1860, to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms. **Pages S11235–36**

National American Indian and Alaska Native Heritage Month: Senate agreed to S. Res. 342, recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States. **Page S11236**

Measures Considered:

Military Construction and Veterans Affairs Appropriations Act—Agreement: Senate began consideration of H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, taking action on the following amendments proposed thereto: **Pages S11187–91**

Adopted:

Johnson/Hutchison Amendment No. 2732 (to Amendment No. 2730), to make a technical amendment regarding the designation of funds. **Page S11191**

Pending:

Johnson/Hutchison Amendment No. 2730, in the nature of a substitute. **Pages S11188–91**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 9:30 a.m., on Friday, November 6, 2009. **Page S11237**

Appointments:

Commission on Wartime Contracting in Iraq and Afghanistan: The Chair, on behalf of the Vice President, pursuant to Public Law 110–181, and in consultation with the Chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations, appointed the following individual to be a member of the Commission on Wartime Contracting in Iraq and Afghanistan: Katherine Schinasi of Washington, D.C. vice Linda J. Gustitus of the District of Columbia. **Page S11236**

Davis Nomination—Agreement: A unanimous-consent-time agreement was reached providing that at 4:30 p.m., on Monday, November 9, 2009, Senate begin consideration of the nomination of Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit; that there be 60 minutes of debate with respect to the nomination, with the time equally divided and controlled between Senators Leahy and Sessions, or their designees; that

at 5:30 p.m., Senate vote on confirmation of the nomination. **Page S11196**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 93 yeas (Vote No. EX. 341), Ignacia S. Moreno, of New York, to be an Assistant Attorney General. **Pages S11186–88, S11237**

Arturo A. Valenzuela, of the District of Columbia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

Rolena Klahn Adorno, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

Anne S. Ferro, of Maryland, to be Administrator of the Federal Motor Carrier Safety Administration.

Marvin Krislov, of Ohio, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

Susan Tsui Grundmann, of Virginia, to be Chairman of the Merit Systems Protection Board.

Susan Tsui Grundmann, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2016.

Anne Marie Wagner, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2014.

Benjamin B. Wagner, of California, to be United States Attorney for the Eastern District of California for the term of four years.

Laurie O. Robinson, of the District of Columbia, to be an Assistant Attorney General.

Cynthia L. Quarterman, of Georgia, to be Administrator of the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Carmen Milagros Ortiz, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

Edward J. Tarver, of Georgia, to be United States Attorney for the Southern District of Georgia for the term of four years.

Elizabeth M. Robinson, of Virginia, to be Chief Financial Officer, National Aeronautics and Space Administration.

Patrick Gallagher, of Maryland, to be Director of the National Institute of Standards and Technology. **Pages S11196, S11237**

Messages From the House: **Pages S11203–04**

Executive Communications: **Page S11204**

Executive Reports of Committees: **Page S11205**

Additional Cosponsors: **Pages S11205–07**

Statements on Introduced Bills/Resolutions: **Pages S11207–23**

Additional Statements: **Page S11203**

Amendments Submitted: **Pages S11223–32**

Authorities for Committees to Meet: **Pages S11232–33**

Privileges of the Floor: **Page S11233**

Record Votes: Seven record votes were taken today. (Total—341) **Pages S11148, S11169–72, S11175, S11187**

Adjournment: Senate convened at 9:31 a.m. and adjourned at 8:31 p.m., until 9:30 a.m. on Friday, November 6, 2009. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11237.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the nominations of Steven L. Jacques, of Kansas, to be Assistant Secretary of Housing and Urban Development for Public Affairs, who was introduced by Senator McCaskill, Eric L. Hirschhorn, of Maryland, to be Under Secretary of Commerce for Export Administration, who was introduced by former Representative Stephen Solarz, and Marisa Lago, of New York, to be Assistant Secretary of the Treasury for International Markets and Development, who was introduced by Senator Reed, after the nominees testified and answered questions in their own behalf.

WATER AND POWER BILLS

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded a hearing to examine S. 1757, to provide for the prepayment of a repayment contract between the United States and the Uintah Water Conservancy District, S. 1758, to provide for the allocation of costs to project power with respect to power development within the Diamond Fork System, and S. 1759, to authorize certain transfers of water in the Central Valley Project, after receiving testimony from Senators Feinstein and Boxer; Michael L. Connor, Commissioner, Bureau of Reclamation, Department of the Interior; Martin R. McIntyre, San Luis Water District, Los Banos, California; and Hamilton Candee, Altshuler Berzon LLP, San Francisco, California, on behalf of the Grassland Water District.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported S. 1733, to create clean energy jobs, promote energy independence, reduce global warming pollution, and transition to a

clean energy economy, with an amendment in the nature of a substitute.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Jeffrey L. Bleich, of California, to be Ambassador to Australia, who was introduced by Senator Kerry, David Huebner, of California, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa, Robert R. King, of Virginia, to be Special Envoy on North Korean Human Rights Issues, with the rank of Ambassador, who was introduced by Representatives Berman and Ros-Lehtinen, and Peter Alan Prahar, of Virginia, to be Ambassador to the Federated States of Micronesia, all of the Department of State, after the nominees testified and answered questions in their own behalf.

INCORPORATION TRANSPARENCY AND LAW ENFORCEMENT ASSISTANCE ACT

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine S. 569, to ensure that persons who form corporations in the United States disclose the beneficial owners of those corporations, in order to prevent wrongdoers from exploiting United States corporations for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations, after receiving testimony from David S. Cohen, Assistant Secretary of the Treasury for Terrorist Financing; Jennifer Shasky, Senior Counsel to the Deputy Attorney General, Department of Justice; David H. Kellogg, Solers Inc., Arlington, Virginia; Kevin L. Shepherd, American Bar Association, Baltimore, Maryland; John R. Ramsey, Federal Law Enforcement Officers Association, Lewisberry, Pennsylvania; and Jack A. Blum, Tax Justice Network-USA, Washington, D.C., on behalf of Global Financial Integrity.

EMPLOYMENT NON-DISCRIMINATION ACT

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine S. 1584, to prohibit employment discrimination on the basis of sexual orientation or gender identity, after receiving testimony from Thomas E. Perez, Assistant Attorney General, Department of Justice; Lisa Madigan, Illinois Attorney General, and Camille A. Olson, Seyfarth Shaw LLP, both of Chicago, Illinois; Helen Norton, University of Colorado School of Law, Boulder; Virginia Nguyen, Nike, Beaverton, Oregon; Michael P. Carney, City of Springfield Police Department, Springfield, Massachusetts; and Craig L. Parshall, National Religious Broadcasters, Manassas, Virginia.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1490, to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information, with an amendment;

S. 139, to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing sensitive personally identifiable information, to disclose any breach of such information;

S. 1472, to establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, with an amendment; and

The nominations of Ketanji Brown Jackson, of Maryland, to be a Member of the United States Sentencing Commission, Kenyen Ray Brown, to be United States Attorney for the Southern District of Alabama, Stephanie M. Rose, to be United States Attorney for the Northern District of Iowa, and Nicholas A. Klinefeldt, to be United States Attorney for the Southern District of Iowa, all of the Department of Justice.

RECIDIVISM AT THE LOCAL LEVEL

Committee on the Judiciary: Subcommittee on Crime and Drugs concluded a hearing to examine reducing recidivism at the local level, after receiving testimony from Harvey Bartle III, Chief Judge, United States District Court for the Eastern District of Pennsylvania, Philadelphia; Doug Burris, Chief Probation Officer, United States District Court for the Eastern District of Missouri, St. Louis; Sheriff Andrea Cabral, Suffolk County Sheriff's Department, Boston, Massachusetts; Chief Stefan LoBuglio, Montgomery County Department of Correction and Rehabilitation Pre-Release and Reentry Services Division, Rockville, Maryland; and Amy L. Solomon, Urban Institute Justice Policy Center, and David B. Muhlhausen, Heritage Foundation Center for Data Analysis, both of Washington, D.C.

VETERANS' AFFAIRS AND INDIAN HEALTH SERVICE COOPERATION

Committee on Veterans' Affairs: Committee concluded a hearing to examine Veterans' Affairs and Indian Health Service cooperation, after receiving testimony from Senator Murkowski; James R. Floyd, Network

Director, VA Heartland Network (VISN 15), Veterans Health Administration, Department of Veterans Affairs; Randy E. Grinnell, Deputy Director, Indian Health Service, and Theresa Cullen, Director of Information Technology, Indian Health Service, both of the Department of Health and Human Services; W.J. Richardson, Rocky Mountain Health Network, Helena, on behalf of the Montana Healthcare System; William Clayton Sam Park, Papa Ola Lokahi, Honolulu, Hawaii; S. Kevin Howlett, The Confederated Salish and Kootenai Tribes of the Flathead Nation, St. Ignatius, Montana, on behalf of the Tribes Health & Human Services Department; and Andy Joseph, the Confederated Tribes of the Colville Reservation and the Northwest Portland Area Indian Health Board, Washington, D.C., on behalf of the National Indian Health Board.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 10 public bills, H.R. 4027–4036; and 5 resolutions, H. Con. Res. 209; and H. Res. 891–894 were introduced. **Page H12456**

Additional Cosponsors: **Pages H12456–57**

Report Filed: A report was filed today as follows:

H.R. 1849, to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial and to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, with an amendment (H. Rept. 111–329, Pt. 1). **Pages H12455–56**

Speaker: Read a letter from the Speaker wherein she appointed Representative Pastor to act as Speaker Pro Tempore for today. **Page H12367**

Oath of Office—Tenth Congressional District of California: Representative-elect John Garamendi presented himself in the well of the House and was administered the Oath of Office by the Speaker. Earlier, the Clerk of the House transmitted a facsimile copy of a letter from Ms. Cathy Mitchell, Chief of Elections Division, Secretary of State, State of California, indicating that, according to the unofficial returns of the Special Election held November 3, 2009, the Honorable John Garamendi was elected Representative to Congress for the Tenth Congressional District, State of California. **Pages H12379–80, H12453**

Whole Number of the House: The Speaker announced to the House that, in light of the administration of the oath to the gentleman from California, Mr. Garamendi, the whole number of the House is adjusted to 434. **Page H12380**

Suspensions—Proceedings Resumed: The House agreed to suspend the rules and agree to the following measures which were debated on Wednesday, November 4th:

Honoring and recognizing the service and achievements of current and former female members of the Armed Forces: H. Res. 868, to honor and recognize the service and achievements of current and former female members of the Armed Forces, by a ⅔ yea-and-nay vote of 366 yeas with none voting "nay", Roll No. 858; **Pages H12380–81**

Congratulating the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and recognizing their contributions to the Nation: H. Con. Res. 139, amended, to congratulate the first graduating class of the United States Air Force Academy on their 50th graduation anniversary and to recognize their contributions to the Nation, by a ⅔ yea-and-nay vote of 411 yeas with none voting "nay", Roll No. 860; **Pages H12396–97**

Recognizing the efforts of career and technical colleges to educate and train workers for positions in high-demand industries: H. Res. 880, amended, to recognize the efforts of career and technical colleges to educate and train workers for positions in high-demand industries, by a ⅔ recorded vote of 409 ayes with none voting "no", Roll No. 861; and **Pages H12397–98**

Agreed to amend the title so as to read: "Recognizing the efforts of postsecondary institutions offering career and technical education to educate and train workers for positions in high-demand industries.". **Page H12397**

Expressing support for the goals and ideals of National Family Literacy Day: H. Res. 878, to express support for the goals and ideals of National Family Literacy Day, by a ⅔ recorded vote of 409 ayes with none voting "no", Roll No. 864.

Page H12428

Suspensions: The House agreed to suspend the rules and pass the following measures:

Unemployment Compensation Extension Act of 2009: Agreed to the Senate amendment to H.R. 3548, to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, by a ⅔ yea-and-nay vote of 403 yeas to 12 nays, Roll No. 859; **Pages H12381–90, H12395–96**

World War I Memorial and Centennial Act of 2009: H.R. 1849, amended, to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial and to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, by a ⅔ yea-and-nay vote of 418 yeas to 1 nay, Roll No. 862;

Pages H12390–94, H12426

Cesar E. Chavez Post Office Designation Act: S. 748, to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the "Cesar E. Chavez Post Office"; and **Pages H12400–01**

American Medical Isotopes Production Act of 2009: H.R. 3276, amended, to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes, by a ⅔ yea-and-nay vote of 400 yeas to 17 nays, Roll No. 863.

Pages H12401–06, H12426–27

Suspensions—Proceedings Postponed: The House debated the following measures under suspension of the rules. Further proceedings were postponed:

Corporal Joseph A. Tomci Post Office Building Designation Act: H.R. 3788, to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building" and

Pages H12394–95

Jack F. Kemp Post Office Building Designation Act: S. 1211, to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building". **Pages H12398–H12400**

Chemical Facility Anti-Terrorism Act of 2009: The House began consideration of H.R. 2868, to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities. Consideration is expected to resume tomorrow, November 6th. **Pages H12370–79, H12407–26**

H. Res. 885, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of 233 yeas to 182 nays, Roll No. 857, after the previous question was ordered by a yea-and-nay vote of 241 yeas to 180 nays, Roll No. 856. **Pages H12378–79**

Moment of Silence: The House observed a moment of silence in honor of the victims of the violence at Fort Hood today, November 5, 2009. **Page H12427**

Quorum Calls—Votes: Seven yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H12378, H12378–79, H12380, H12395–96, H12396–97, H12397, H12426. H12427 and H12428. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:06 p.m.

Program for Friday: Complete consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009.

Committee Meetings

U.S. IRAQ/AFGHANISTAN STRATEGY

Committee on Armed Services: Subcommittee on Oversight and Investigations held a hearing on Iraq and Afghanistan: Perspectives on U.S. Strategy, Part II. Testimony was heard from public witnesses.

PREVENTING CHILD ABUSE

Committee on Education and Labor: Subcommittee on Healthy Families and Communities held a hearing on Preventing Child Abuse and Improving Responses to Families in Crisis. Testimony was heard from Rodney Hammond, Director, Division of Violence Prevention, National Center for Injury Prevention and Control, Center for Disease Control and Prevention, Department of Health and Human Services and public witnesses.

COMMITTEE PRINT—FINANCIAL STABILITY IMPROVEMENT ACT OF 2009

Committee on Financial Services: Began consideration of Committee Print of the Financial Stability Improvement Act of 2009.

Will continue tomorrow.

MISCELLANEOUS MEASURES

Committee on the Judiciary: ordered reported the following bills: H.R. 3845, as amended, USA PATRIOT Amendments Act of 2009; H.R. 984, as amended, State

Secret Protection Act of 2009; and H. Res. 871, Directing the Attorney General to transmit to the House of Representatives certain documents, records, memos, correspondence, and other communications regarding medical malpractice reform.

COMBATING ORGANIZED RETAIL CRIME

Committee on the Judiciary: Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on Combating Organized Retail Crime—The Role of Federal Law Enforcement. Testimony was heard from David J. Johnson, Section Chief, Violent Crime Section, Criminal Investigation Division, FBI, Department of Justice; Janice Ayala, Deputy Assistant Director, Office of Investigations, Immigration and Customs Enforcement; and John R. Large, Special Agent in Charge, Criminal Investigations Division, both with the Department of Homeland Security; and Zane Hill, Deputy Chief Postal Inspector, U.S. Postal Service.

RENEWABLE ENERGY SITING TRANSMISSION MODELS

Committee on Natural Resources: Subcommittee on Energy and Mineral Resources and the Subcommittee on Water and Power held a joint oversight hearing entitled ''Getting Past Gridlock: Models for Renewable Energy Siting and Transmission.'' Testimony was heard from Marcilynn Burke, Deputy Director, Bureau of Land Management, Department of the Interior; Patricia Hoffman, Acting Assistant Secretary, Office of Electricity Delivery and Energy Reliability, Department of Energy; Dian Grueneich, Commissioner, Public Utilities Commission, State of California; and public witnesses.

GUAM PUBLIC EDUCATION PROGRAM

Committee on Natural Resources: Subcommittee on Insular Affairs, Oceans and Wildlife held a hearing on H.R. 3940, To authorize the Secretary of the Interior to extend grants and other assistance to facilitate a political status public education program for the people of Guam. Testimony was heard from Nikolao Pula, Director, Office of Insular Affairs, Department of the Interior; and Felix P. Camacho, Governor of Guam.

MISCELLANEOUS MEASURES

Committee on Natural Resources: Subcommittee on National Parks, Forests and Public Lands, hearing on the following bills: H.R. 765, Nellis Dunes National Off-Highway Vehicle Recreation Area Act of 2009; H.R. 1769, Alpine Lakes Wilderness Additions and Pratt and Middle Fork Snoqualmie Rivers Protection Act; H.R. 2476, Ski Area Recreational Opportunity Enhancement Act of 2009; H.R. 3388, Petersburg National Battlefield Boundary Modification Act; H.R. 3603, To rename the Ocmulgee National Monument; H.R. 3759, BLM Contract Extension Act; and H.R. 3804, National Park Service Authorities and Corrections Act of 2009. Testimony was heard from Representatives Forbes Marshall, Reichert, Heller, Polis and Tonko; Katherine H. Stevenson, Assistant Director, Business Services, National Park Service, Department of the Interior; Jim Bedwell, Director, Recreation and Heritage Resources, Forest Service, USDA; and public witnesses.

POSTAL SERVICE DIVERSIFICATION

Committee on Oversight and Government Reform: Subcommittee on Federal Workforce, Postal Service and the District of Columbia held a hearing entitled ''More than Stamps: Adapting the Postal Service to a Changing World.'' Testimony was heard from Robert Bernstock, President, Mailing and Shipping Services, U.S. Postal Service; Ruth Goldway, Chairman, U.S. Postal Regulatory Commission; Phillip Herr, Director, Physical Infrastructure, GAO: Michael Coughlin, Deputy Postmaster General, U.S. Postal Service; and a public witness.

NATIONAL ARCHIVES ELECTRONIC RECORDS

Committee on Oversight and Government Reform: Subcommittee on Information Policy, Census and the National Archives held a hearing entitled ''The National Archives' Ability to Safeguard the Nation's Electronic Records.'' Testimony was heard from the following officials of the National Archives and Records Administration: Adrienne Thomas. Acting Archivist of the United States; and Paul Brachfeld, Inspector General; David A. Powner, Director, Information Technology, Management Issues, GAO; and a public witness.

GEOENGINEERING/CLIMATE INTERVENTION

Committee on Science and Technology: Held a hearing on Geoengineering: Assessing the Implications of Large-Scale Climate Intervention. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Approved the following measures: the Hazardous Material Transportation Safety Act of 2009; H.R. 3377, as amended, Disaster Response, Recovery, and Mitigation Enhancement Act of 2009; H.R. 1174, as amended, FEMA Independence Act of 2009; H. Res. 841, Expressing support for designation of November 29, 2009, as ''Drive Safer Sunday;'' and General Services Administration Capital Investment and Leasing Program Resolutions.

FOREIGN BANK ACCOUNT REPORTING

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on Foreign Bank Account Reporting and Tax Compliance. Testimony was heard from the following officials of the Department of the Treasury: Stephen E. Shay, Deputy Assistant Secretary, International Tax Affairs; and William J. Wilkins, Chief Counsel, IRS; and public witnesses.

CLASSIFIED INFORMATION ACCESS

Permanent Select Committee on Intelligence: Met and voted on non-committee member requests for access to classified information.

BRIEFING ON PERU

Permanent Select Committee on Intelligence: Subcommittee on Oversight and Investigations met in executive session to receive a briefing on Peru. Subcommittee was briefed by departmental witnesses.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR FRIDAY, NOVEMBER 6, 2009

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

Committee on Financial Services, to continue markup of Committee Print of the Financial Stability Improvement Act of 2009, 12 p.m., 2128 Rayburn.

Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, hearing on H.R. 2811, To amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal, 10 a.m., 2141 Rayburn.

Committee on Rules, to consider H.R. 3962, Affordable Health Care for America Act of 2009, 2 p.m., H–3123 Capitol.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment situation for October 2009, 9:30 a.m., SD–106.

Next Meeting of the SENATE

9:30 a.m., Friday, November 6

Senate Chamber

Program for Friday: Senate will continue consideration of H.R. 3082, Military Construction and Veterans Affairs Appropriations Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, November 6

House Chamber

Program for Friday: Complete consideration of H.R. 2868—Chemical Facility Anti-Terrorism Act of 2009.

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