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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker.

PRAYER

Monsignor Stephen J. Rossetti, Catholic University of America, Washington, DC, offered the following prayer:

Good and gracious God, as we enter upon this joyous season, we are aware of so much hurt and pain, conflict and violence around the world and even in our own land.

We know that as long as we live in this world, such signs of our fallen humanity will always be with us. We do not pray that it will all magically disappear. However, in this season of grace, we pray that You might be with us in an especially poignant way. May each of us come to know You more deeply, You who are our peace.

May each of us feel and treasure our common human bond with all our sisters and brothers. May we truly know peace on this Earth, and may we offer good will to all.

We make this prayer in Your holy name.

Amen.

NOTICE

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

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

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

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

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–59.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina 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.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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REFLECTING ON THE 111TH CONGRESS

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

Mr. MAFFEI. Madam Speaker, I wanted to take a moment to reflect on this 111th Congress and to say how proud I am to have been a part of it. Some may look at the recent election and say we were off track. But while those showing up to vote may have changed from 2008 to 2010, I and so many of my colleagues stayed true to the people who elected us to change the direction of this country, and we did just that.

From health care to financial reform, the Fair Pay Act to the repeal of Don't Ask, Don't Tell, I do not apologize for our accomplishments. I embrace them.

On a personal note, I have worked on Capitol Hill nearly 12 years, starting as a junior staffer for a Senator and eventually becoming an elected Member of this House. Despite the cynicism about Congress, I have been privileged to work alongside staff and Members dedicated to the public good and furthering this great Republic, often at great personal expense. I thank them, and I will forever be grateful that a shy public school student of modest means from Syracuse, New York, could come here as a Member of this great Congress in this great country.

CONGRATULATING PEPPER PENNINGTON

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

Mr. WILSON of South Carolina. Madam Speaker, today I would like to extend my sincere appreciation to a dedicated staffer in the office of the Second Congressional District of South Carolina. Pepper Pennington will be leaving the office to become chief of staff for Congressman-elect Daniel Webster of Florida's Eighth Congressional District.

Pepper has done a wonderful job serving the people of South Carolina's Second District since November 2009. As communications director, she has been the main contact between the office and members of the media. Pepper has been dedicated, hardworking, and is a valuable asset to the people of South Carolina. Pepper began her career on Capitol Hill in the Office of Congressman Tom Feeney of Florida and served as communications director for Congressman PAUL Broun of Georgia.

Pepper is the daughter of Cass and Cindy Pennington. She is a graduate of the University of Florida, and she is a diehard Gator fan. Pepper is engaged to marry Dave Natonski. She is a credit to the people of South Carolina and Florida. I wish her Godspeed. While I am sad to see her leave, I am even more proud to see her achieve such success. She will be truly missed in the office, and I wish her all the success in her new position.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

CONGRATULATING THE UCONN WOMEN'S BASKETBALL TEAM

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

Mr. COURTNEY. Madam Speaker, on April 6, 2008, something happened that has not happened since—the UConn women's basketball team lost a game. That was almost 1,000 days ago; and since that day, the UConn Women Huskies have been on a streak that may not end for a long time.

UConn's victory this past Sunday was their 88th consecutive win, tying the Division I record set by the UCLA men's team in 1974. Since the streak began, UConn has racked up two national titles for a total of seven. Since the streak began, UConn Coach Geno Auriemma was chosen to lead the 2012 Olympic team. Since the streak began, UConn has had five first team all-Americans and back-to-back Player of the Year winners, Maya Moore and Tina Charles. Maya carries now a 4.0 average and is also the Big East Scholar Athlete of the Year. Since the streak began, UConn has maintained its 100 percent graduation rate for players, demonstrating that athletic achievement and academic excellence are not mutually exclusive.

Tonight the Huskies will play Florida State for a chance to surpass UCLA's record. Good luck to them and congratulations for their amazing success and sterling example for student athletes, both men and women.

THE PARTY'S OVER

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

Mr. MCCLINTOCK. Madam Speaker, on November 2, the American people spoke loudly and clearly: stop the spending. Instead of graciously bowing to the public will, the left has embarked upon a frantic lame duck spending spree with a majority that has already been turned out of office by the voters.

First, they exacted another $136 billion in spending as the price to prevent a devastating tax increase on New Year's Day. They tried—unsuccessfully—to cram through a $1.1 trillion omnibus spending bill packed with more than 6,000 earmarks. They are now pressing to continue spending at a rate that exceeds even that of 2010.

Now you could say they're partying like irresponsible teenagers; but even irresponsible teenagers have enough sense to stop trashing the house after the parents have phoned to say they're on their way home. Madam Speaker, the parents are going to be here in 15 days, and I have news for you: The party's over. Go home.

POST–9/11 GI BILL BENEFITS FOR NATIONAL GUARDSMEN

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

Mr. ALTMIRE. Madam Speaker, I rise to congratulate National Guardsmen all across America on the passage of the Post-9/11 Veterans Educational Assistance Improvements Act, which the President will sign into law later this week. Legislation that I introduced in the House last year to allow National Guardsmen to use their title 32 service—which includes homeland security troop support and disaster relief—to qualify for post-9/11 GI Bill benefits is included in the bill we sent to the President last week. Under this bill, 130,000 National Guardsmen who have helped to protect our citizens here at home will now be able to qualify for the GI Bill's many education benefits.

The heroes in America's National Guard, including the 20,000 soldiers and airmen in the Pennsylvania National Guard, provide invaluable service to our country during times of crisis; and thanks to this bill, they too will benefit from the landmark legislation signed into law in 2008.

I stand today to thank America's National Guard for their service and let them know our work is not done in honoring their commitment to our safety and security.

□ 1010

IT'S TIME TO CUT FEDERAL SPENDING

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

Ms. FOXX. Madam Speaker, the American people sent a crystal clear message to Washington in November that they are tired of this town's job-killing spending spree. But it appears that our colleagues in the current majority didn't get the message.

As a result, the government funding bill we're going to debate this week continues the record-setting rate of spending passed by the Democrat majority last year. This includes the higher spending for programs that have been bolstered by unnecessary and ineffective stimulus dollars.

Republicans have pledged real spending cuts to get our Nation back to a responsible budget and help create jobs. In fact, we've proposed to cut spending to pre-bailout and pre-stimulus 2008 levels, which would save taxpayers $100 billion a year.

Madam Speaker, let's listen to the American people and get Federal spending under control.

HONORING JAMES DAVIS FOR HIS GENEROUS CONTRIBUTIONS TO THE COMMUNITY

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

Mr. BOOZMAN. Madam Speaker, I rise today in gratitude of the lifetime of generous contributions to Arkansas and its citizens by Jim Davis.

Service was an integral part of Jim's life, serving in the U.S. Army in the Western Pacific and Korea. He continued his passion for his community throughout his life as a gracious contributor who served on several boards and commissions and actively volunteered and devoted his time to create a better life for all in Arkansas.

Jim served as the chairman of the Leadership Council and the Arkansas Chapter of the National Federation of Independent Business. Former Governor Mike Huckabee appointed him to the Arkansas State Health Board, the Beverage Control Board, and the Arkansas State Police Commission. He was currently serving as a member of the Arkansas Commission for Veterans Affairs, and he was a proud Shriner and Mason.

After a long, fulfilling life, Jim passed away on December 18, and he will certainly be missed. However, his legacy will live for generations to come because of his generosity.

I ask my colleagues to keep Jim's family and friends in their thoughts and prayers during these difficult times.

THE VOTERS ALWAYS HAVE THE FINAL SAY

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

Mr. DJOU. Madam Speaker, I rise to address this House for what will likely be my last formal address from this floor.

While my term has been short, it has been an honor and privilege representing the people of Hawaii. It is testimony to the greatness of our Nation that a child of immigrants from China and Thailand can call himself a maker of laws in the United States.

I want to first thank the voters of Hawaii for giving me this opportunity to serve them, but I also want to thank all the volunteers who worked so hard to get me here. But most of all, I want to thank my family for giving me everything that I have.

I believe that a limited government is better at establishing prosperity than an expansive government. I believe that a vibrant two-party democracy is better at preserving liberty than one-party monolithic rule. And I believe that open and responsive public officials are better at ensuring an accountable government than an old boy network.

But I also believe one of the beauties of our Nation is that the voters always have the final say. And while I may be disappointed in my results, I recognize that my views are in the minority in my congressional district. Yielding to the final word of the voters is something that I always will respect.

May God bless this House and may God bless the United States of America.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Ms. BALDWIN) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 17, 2010.

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

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 17, 2010 at 8:40 p.m.:

That the Senate passed H.J. Res. 105.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

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

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 2010.

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

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 18, 2010 at 3:54 p.m.:

That the Senate concur in House amendment to Senate amendment H.R. 2965.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

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

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 20, 2010.

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

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 20, 2010 at 9:49 a.m.:

That the Senate S. 118.

That the Senate passed with amendments H.R. 4915.

That the Senate passed without amendment H.R. 6510.

That the Senate passed without amendment H.R. 6473.

That the Senate passed without amendment H.R. 6533.

That the Senate passed without amendment H. Con. Res. 335.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

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

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 20, 2010.

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

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 20, 2010 at 3 p.m.:

That the Senate passed with amendments H.R. 2751.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following joint resolution was signed by the Speaker on Friday, December 17, 2010:

H.J. Res. 105, making further continuing appropriations for fiscal year 2011, and for other purposes.

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.

SHARK CONSERVATION ACT OF 2010

Ms. BORDALLO. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 81) 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.

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. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SHARK CONSERVATION ACT OF 2010

Sec. 101. Short title.
Sec. 102. Amendment of the High Seas Driftnet Fishing Moratorium Protection Act.
Sec. 103. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
Sec. 104. Offset of implementation cost.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

Sec. 201. Short title.
Sec. 202. International Fishery Agreement.
Sec. 203. Application with other laws.
Sec. 204. Effective date.

TITLE III—MISCELLANEOUS

Sec. 301. Technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act.
Sec. 302. Pacific Whiting Act of 2006.
Sec. 303. Replacement vessel.

TITLE I—SHARK CONSERVATION ACT OF 2010

SEC. 101. SHORT TITLE.

This title may be cited as the ''Shark Conservation Act of 2010''.

SEC. 102. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;'';

(2) in paragraph (2), by striking ''and'' at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

''(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and''.

(b) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the ''and'' before ''bycatch reduction requirements''; and

(2) by striking the semicolon at the end and inserting '', and shark conservation measures;''.

(c) EQUIVALENT CONSERVATION MEASURES.—

(1) IDENTIFICATION.—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking ''607, a nation if—'' and inserting ''607—'';

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

''(1) a nation if—'';

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following:

''(2) a nation if—

''(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

''(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.''.

(2) INITIAL IDENTIFICATIONS.—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 103. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

(a) IN GENERAL.—Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

''(P)(i) to remove any of the fins of a shark (including the tail) at sea;

''(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

''(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

''(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;''; and

(2) by striking the matter following subparagraph (R) and inserting the following:

''For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term 'naturally attached', with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.''.

(b) SAVINGS CLAUSE.—

''(1) IN GENERAL.—The amendments made by subsection (a) do not apply to an individual engaged in commercial fishing for smooth dogfish (Mustelus canis) in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a State from which the territorial sea is measured, if the individual holds a valid State commercial fishing license, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board.

(2) DEFINITIONS.—In this subsection:

(A) COMMERCIAL FISHING.—The term ''commercial fishing'' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(B) STATE.—The term ''State'' has the meaning given that term in section 803 of Public Law 103–206 (16 U.S.C. 5102).

SEC. 104. OFFSET OF IMPLEMENTATION COST.

Section 308(a) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(a)) is amended by striking ''2012.'' and inserting ''2010, and $2,500,000 for each of fiscal years 2011 and 2012.''.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''International Fisheries Agreement Clarification Act''.

SEC. 202. INTERNATIONAL FISHERY AGREEMENT.

Consistent with the intent of provisions of the Magnuson-Stevens Fishery and Conservation and Management Act relating to international agreements, the Secretary of Commerce and the New England Fishery Management Council may, for the purpose of rebuilding those portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding on the date of enactment of this Act—

(1) take into account the Understanding and decisions made under that Understanding in the application of section 304(e)(4)(A)(i) of the Act (16 U.S.C. 1854(e)(4)(A)(i));

(2) consider decisions made under that Understanding as ''management measures under an international agreement'' that ''dictate otherwise'' for purposes of section 304(e)(4)(A)(ii) of the Act (16 U.S.C. 1854(e)(4)(A)(ii); and

(3) establish catch levels for those portions of fish stocks within their respective geographic areas covered by the Understanding on the date of enactment of this Act that exceed the catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if—

(A) overfishing is ended immediately;

(B) the fishing mortality level ensures rebuilding within a time period for rebuilding specified taking into account the Understanding pursuant to paragraphs (1) and (2) of this subsection; and

(C) such catch levels are consistent with that Understanding.

SEC. 203. APPLICATION WITH OTHER LAWS.

Nothing in this title shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary of Commerce under that Act concerning other species.

SEC. 204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), section 202 shall apply with respect to fishing years beginning after April 30, 2010.

(b) SPECIAL RULE.—Section 202(3)(B) shall only apply with respect to fishing years beginning after April 30, 2012.

TITLE III—MISCELLANEOUS

SEC. 301. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking ''Management Council and'' in subsection (a) and inserting ''Management Council, and one of whom shall be the chairman or a member of'';

(2) by striking subsection (c)(1) and inserting the following:

''(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

''(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''.

SEC. 302. PACIFIC WHITING ACT OF 2006.

(a) SCIENTIFIC EXPERTS.—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking ''at least 6 but not more than 12'' inserting ''no more than 2''.

(b) EMPLOYMENT STATUS.—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

''(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title, other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''.

SEC. 303. REPLACEMENT VESSEL.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 188 Stat. 886–891).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Washington (Mr. HASTINGS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

□ 1020

Ms. BORDALLO. Madam Speaker, I rise today in strong support of H.R. 81, the Shark Conservation Act of 2009. This bill, which I first introduced more than 3 years ago, reconfirms the original intent of Congress to prevent shark finning by prohibiting the removal of fins at sea, and the possession, transference, or landing of fins which are not naturally attached to the corresponding carcass. This critical conservation measure and enforcement mechanism will help to end the wasteful and abusive practice of shark finning and make us a world leader in shark conservation.

Yesterday, the Senate amended my bill to clarify that certain fish stocks in New England are considered to be managed under an international agreement for purposes of the Magnuson-Stevens Fishery Conservation and Management Act. The bill was also amended to make technical corrections to two international fishery implementation acts to allow proper participation by stakeholders on the respective advisory bodies. Amendments were also made to clarify that the Secretary of Commerce can issue regulations to allow for the replacement of corroding vessels in the non-pollock groundfish fishery.

In addition, the Senate inserted language to exempt one particular fishery from the new requirement to land sharks with their fins naturally attached. While I am not supportive of this particular exemption, I do think it is important to note that this fishery represents less than 1 percent of all the shark fishing in the United States, and that the restrictions on shark finning currently in the law will still apply to them.

Putting an end to shark finning is imperative to the conservation of these important and iconic species. With that, I ask Members on both sides to support its passage.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, this legislation takes H.R. 81, the Shark Conservation Act of 2010, which passed this House in March of last year, and adds several other fisheries provisions, all of which I support. My colleague has adequately explained and described what is in this small fisheries package, and I do not object to this legislation. Action by this House will clear these measures for the President. I urge adoption.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in support of H.R. 81, the Shark Conservation Act of 2009. First, I want to commend the chief sponsor, the Chairwoman of the Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife, and my good friend, Ms. MADELEINE BORDALLO of Guam, for her leadership on this important issue. I also want to commend Chairman NICK RAHALL and members of the Committee on Natural Resources for their strong support of this bipartisan legislation.

This piece of legislation underscores the need for the U.S. to maintain its leadership role in conserving sharks and the marine ecosystems of which they are an important part. The increasing amount of shark finning has taken an adverse impact on our efforts and warrants continued efforts from Congress to reverse these unwanted trends. Economic profits have fueled high demands for shark fins and have led to the exploitation of our marine ecosystem. Exploiters remove only shark fins and dump carcasses at sea. It is Congress' responsibility to maintain prohibition of shark finning in order to preserve the conservation of sharks and their corresponding ecosystems.

Congress enacted the Shark Finning Prohibition of 2000, to prohibit fishermen from removing the fins of sharks and discarding the carcasses at sea, and prevent the transportation of shark fins without the corresponding carcasses. Effective enforcement of these prohibitions are found wanting.

In 2008, the 9th Circuit US Court of Appeals held that the shark finning prohibitions and related implementing regulations promulgated by the National Marine Fisheries Service (NMFS) do not apply to certain vessels even though they are performing fishing-related activities. According to the court ruling, the statutory definition of "fishing vessel" did not offer fair notice to the fishermen engaging in the at-sea purchase and transfer of shark fins that would render the fishermen subject to the shark finning laws. In effect, the court ruled that the application of the prohibition laws under the Shark Finning Prohibition of 2008 Act violates due process.

The bill before us today, H.R. 81, remedies the problem presented by the 2008 court ruling. The proposed language clarifies that all vessels, not just fishing vessels, are prohibited from having custody, control, or possession of shark fins without the corresponding carcass, thereby eliminating the unexpected loophole related to the transport of shark fins. n addition, the proposed bill would strengthen the capacity of our Federal Government to better monitor and enforce existing laws.

Madam Speaker, it is necessary that we pass this legislation immediately given the devastation confronting our national marine ecosystems. Sharks play an integral role in our ecosystem and it is our responsibility to ensure that they are protected. The future of our ecosystem is in our hands and we need to do all that we can for the sake of our natural resources and for our future generations.

I urge my colleagues to pass H.R. 81.

Mrs. CAPPS. Madam Speaker, I rise today to express my support for H.R. 81, the Shark Conservation Act.

I want to thank Congresswoman BORDALLO for introducing this legislation of which I am a cosponsor.

Shark populations in our world's oceans are dying.

We need to act, and we need to act now.

Sharks are at the top of the global marine food chain. Sharks have roamed our oceans since before the time of dinosaurs, but now their populations are being threatened by overfishing around the globe.

Shark-finning takes a tremendous toll on shark populations.

An estimated 73 million sharks are killed every year to support the global shark fin trade.

We must act decisively today to help protect these magnificent creatures.

The Shark Conservation Act would end the practice of shark finning in U.S. waters.

However, domestic protections alone will not save sharks.

We need further safeguards to keep marine ecosystems and top predator populations healthy. The Shark Conservation Act will bolster the U.S.'s position when negotiating for increased international fishery protections.

Healthy shark populations in our waters can help drive our economy and make our seas thrive.

This bill is not just about preserving a species, but about preserving an ecosystem, an economy, and a sustainable future.

I urge all of my colleagues to vote in support of H.R. 81.

Mr. FARR. Madam Speaker, I rise today in support of the Senate Amendment to H.R. 81, The Shark Conservation Act of 2010. I am pleased that the Senate has taken up and passed this bill with so little time left in the 111th Congress, and I urge my colleagues to follow suit and vote "yes" to the Senate Amendment to H.R. 81 so that we can send this important piece of legislation to the President's desk.

This bill seeks to adopt important and necessary conservation measures for sharks. Specifically, and perhaps most importantly, the bill amends the High Seas Driftnet Fishing Moratorium Protection Act to prohibit shark-finning. Shark-finning is the removal of any fins of a shark (including the tail), and discarding the carcass of the shark at sea. The practice has egregious effects on shark populations worldwide and the fins remain in high demand for use in "shark fin soup"—an Asian delicacy. It is estimated that 73 million sharks are killed each year as a result of shark-finning. In short, this practice takes a tremendous toll on shark populations.

In addition, many shark species are threatened or endangered, making the conservation measures set forth by this bill timely and necessary. Sharks are one of the top predators in our oceans, and a loss in their population would lead to permanent and detrimental effects on the entire marine environment. The loss of top predators in the marine environment upsets the balance of our oceans, causing severe and sometimes irreversible consequences.

We take so much from our ocean, and yet give nothing back. Protecting and conserving its depleting resources should be a top priority because before long there will be nothing left to take.

For these reasons I urge my colleagues to vote "yes" on the Senate Amendment to H.R. 81.

Mr. HASTINGS of Washington. I yield back the balance of my time.

Ms. BORDALLO. Madam Speaker, in closing, I urge all Members to support this bill.

In our last business before the House for the Natural Resources Committee this year, I would like to thank the gentleman from Washington for his cooperation in this bill, and for all of the opportunities that we have had to work together in this Congress. Moreover, I wish him good luck as the new chairman of the committee next year, and look forward to working with him in the next capacity.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 81.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

DIESEL EMISSIONS REDUCTION ACT OF 2010

Mr. WAXMAN. Madam Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Diesel Emissions Reduction Act of 2010''.

SEC. 2. DIESEL EMISSIONS REDUCTION PROGRAM.

(a) DEFINITIONS.—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended—

(1) in paragraph (3)—

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

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

(C) by adding at the end the following:

''(C) any private individual or entity that—

''(i) is the owner of record of a diesel vehicle or fleet operated pursuant to a contract, license, or lease with a Federal department or agency or an entity described in subparagraph (A); and

''(ii) meets such timely and appropriate requirements as the Administrator may establish for vehicle use and for notice to and approval by the Federal department or agency or entity described in subparagraph (A) with respect to which the owner has entered into a contract, license, or lease as described in clause (i).'';

(2) in paragraph (4), by inserting ''currently, or has not been previously,'' after ''that is not'';

(3) by striking paragraph (9);

(4) by redesignating paragraph (8) as paragraph (9);

(5) in paragraph (9) (as so redesignated), in the matter preceding subparagraph (A), by striking '', advanced truckstop electrification system,''; and

(6) by inserting after paragraph (7) the following:

''(8) STATE.—The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''.

(b) NATIONAL GRANT, REBATE, AND LOAN PROGRAMS.—Section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) is amended—

*(1) in the section heading, by inserting ''**, REBATE,**'' after ''**GRANT**'';*

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities'' and inserting ''to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section,''; and

(B) in paragraph (1), by striking ''tons of'';

(3) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking ''90'' and inserting ''95'';

(ii) in subparagraph (B)(i), by striking ''10 percent'' and inserting ''5 percent''; and

(iii) in subparagraph (B)(ii), by striking ''the application under subsection (c)'' and inserting ''a verification application'';

(4) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

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

''(1) EXPEDITED PROCESS.—

''(A) IN GENERAL.—The Administrator shall develop a simplified application process for all applicants under this section to expedite the provision of funds.

''(B) REQUIREMENTS.—In developing the expedited process under subparagraph (A), the Administrator—

''(i) shall take into consideration the special circumstances affecting small fleet owners; and

''(ii) to avoid duplicative procedures, may require applicants to include in an application under this section the results of a competitive bidding process for equipment and installation.

''(2) ELIGIBILITY.—

''(A) GRANTS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

''(B) REBATES AND LOW-COST LOANS.—To be eligible to receive a rebate or a low-cost loan under this section, an eligible entity shall submit an application in accordance with such guidance as the Administrator may establish—

''(i) to the Administrator; or

''(ii) to an entity that has entered into a contract under subsection (e).'';

(C) in paragraph (3)(G) (as redesignated by subparagraph (A)), by inserting ''in the case of an application relating to nonroad engines or vehicles,'' before ''a description of the diesel''; and

(D) in paragraph (4) (as redesignated by subparagraph (A))—

(i) in the matter preceding subparagraph (A)—

(I) by inserting '', rebate,'' after ''grant''; and

(II) by inserting ''highest'' after ''shall give'';

(ii) in subparagraph (C)(iii)—

(I) by striking ''a diesel fleets'' and inserting ''diesel fleets''; and

(II) by inserting ''construction sites, schools,'' after ''terminals,'';

(iii) in subparagraph (E), by adding ''and'' at the end;

(iv) in subparagraph (F), by striking ''; and'' and inserting a period; and

(v) by striking subparagraph (G);

(5) in subsection (d)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting '', rebate,'' after ''grant''; and

(B) in paragraph (2)(A)—

(i) by striking ''grant or loan provided'' and inserting ''grant, rebate, or loan provided, or contract entered into,''; and

(ii) by striking ''Federal, State or local law'' and inserting ''any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act''; and

(6) by adding at the end the following:

''(e) CONTRACT PROGRAMS.—

''(1) AUTHORITY.—In addition to the use of contracting authority otherwise available to the

Administrator, the Administrator may enter into contracts with eligible contractors described in paragraph (2) for the administration of programs for providing rebates or loans, subject to the requirements of this subtitle.

''(2) ELIGIBLE CONTRACTORS.—The Administrator may enter into a contract under this subsection with a for-profit or nonprofit entity that has the capacity—

''(A) to sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or

''(B) to upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.

''(f) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan, the Administrator shall publish on the website of the Environmental Protection Agency—

''(1) for rebates and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates or loans provided, as well as a breakdown of the technologies funded through the rebates or loans; and

''(2) for other rebates and loans, and for grants, a description of each application for which the grant, rebate, or loan is provided.''.

(c) STATE GRANT, REBATE, AND LOAN PROGRAMS.—Section 793 of the Energy Policy Act of 2005 (42 U.S.C. 16133) is amended—

*(1) in the section heading, by inserting ''**, REBATE,**'' after ''**GRANT**'';*

(2) in subsection (a), by inserting '', rebate,'' after ''grant'';

(3) in subsection (b)(1), by inserting '', rebate,'' after ''grant'';

(4) by amending subsection (c)(2) to read as follows:

''(2) ALLOCATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to 1/53 of the funds made available for that fiscal year for distribution to States under this paragraph.

''(B) CERTAIN TERRITORIES.—

''(i) IN GENERAL.—Except as provided in clause (ii), Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to 1/53 of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

''(ii) EXCEPTION.—If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

''(C) REALLOCATION.—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated to each remaining qualified State in an amount equal to the product obtained by multiplying—

''(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

''(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph.'';

(5) in subsection (d)—

(A) in paragraph (1), by inserting '', rebate,'' after ''grant'';

(B) in paragraph (2), by inserting '', rebates,'' after ''grants'';

(C) in paragraph (3), in the matter preceding subparagraph (A), by striking ''grant or loan provided under this section may be used'' and inserting ''grant, rebate, or loan provided under this section shall be used''; and

(D) by adding at the end the following:

''(4) PRIORITY.—In providing grants, rebates, and loans under this section, a State shall use the priorities in section 792(c)(4).

''(5) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan by a State, the State shall publish on the Web site of the State—

''(A) for rebates, grants, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates, grants, or loans provided, as well as a breakdown of the technologies funded through the rebates, grants, or loans; and

''(B) for other rebates, grants, and loans, a description of each application for which the grant, rebate, or loan is provided.''.

(d) EVALUATION AND REPORT.—Section 794(b) of the Energy Policy Act of 2005 (42 U.S.C. 16134(b)) is amended—

(1) in each of paragraphs (2) through (5) by inserting '', rebate,'' after ''grant'' each place it appears;

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and

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

''(7) in the last report sent to Congress before January 1, 2016, an analysis of the need to continue the program, including an assessment of the size of the vehicle and engine fleet that could provide benefits from being retrofit under this program and a description of the number and types of applications that were not granted in the preceding year.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 797 of the Energy Policy Act of 2005 (42 U.S.C. 16137) is amended to read as follows:

''SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

''(b) MANAGEMENT AND OVERSIGHT.—The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.''.

SEC. 3. AUDIT.

(a) IN GENERAL.—Not later than 360 days after the date of enactment of this Act, the Comptroller General of the United States shall carry out an audit to identify—

(1) all Federal mobile source clean air grant, rebate, or low cost revolving loan programs under the authority of the Administrator of the Environmental Protection Agency, the Secretary of Transportation, or other relevant Federal agency heads that are designed to address diesel emissions from, or reduce diesel fuel usage by, diesel engines and vehicles; and

(2) whether, and to what extent, duplication or overlap among, or gaps between, these Federal mobile source clean air programs exists.

(b) REPORT.—The Comptroller General of the United States shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a copy of the audit under subsection (a); and

(2) make a copy of the audit under subsection (a) available on a publicly accessible Internet site.

(c) OFFSET.—All unobligated amounts provided to carry out the pilot program under title I of division G of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 814) under the heading ''MISCELLANEOUS ITEMS'' are rescinded.

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by section 2 shall take effect on October 1, 2011.

(b) EXCEPTION.—The amendments made by subsections (a)(4) and (6) and (c)(4) of section 2 shall take effect on the date of enactment of this Act.

Amend the title so as to read: ''An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BURGESS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. WAXMAN. Madam 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 California?

There was no objection.

Mr. WAXMAN. Madam Speaker, I yield myself such time as I may consume.

I urge my colleagues to vote in favor of H.R. 5809, an act to reauthorize the Diesel Emissions Reduction Act, or DERA. Since its enactment in 2005, DERA has provided significant public health benefits, improved our national energy security, and helped create jobs. Today's bill will authorize the continuation of this successful program for 2012 through 2016. It also slightly modifies the program to improve its effectiveness and administration.

Diesel engines are the workhorses of the economy. They are used to take students to school, to build roads and buildings, and to transport goods over roads, rails, and waterways. Diesel engines have long had a reputation for being dirty, but that reputation is changing. New diesel engines and vehicles must meet tough standards set by the Environmental Protection Agency. However, there are millions of older diesel engines now in use that have very high emissions, causing a number of public health and environmental problems, including premature death. These engines have long useful lives, up to 25 years, so absent incentives to clean them up, we will be suffering from their pollution for a long time.

DERA is designed to use voluntary partnership approaches to reduce pollution from these existing engines and vehicles. DERA authorizes EPA and the States to use loans and grants to help clean up existing dirty diesel engines and vehicles. Today's bill would also permit EPA to run rebate programs for clean diesel technology.

All 50 States and D.C. have established DERA programs. Today's bill would allow Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands to do the same. DERA projects have included retrofitting schoolbuses to reduce children's exposure to harmful air pollution, repowering locomotives used at seaports to save fuel and reduce emissions in the surrounding neighborhoods, and

replacing high-emitting construction equipment. Clean diesel funding has also been used to help small- and medium-sized trucking companies afford clean technologies.

I was pleased to see EPA's recent action stating a preference for programs for truckers that couple fuel conservation technology with emissions reduction technologies, including anti-idling technologies, over programs that only have fuel conservation provisions. This approach is consistent with the DERA program as amended by this bill.

DERA is delivering numerous benefits. EPA estimates that every $1 spent on clean diesel projects generates up to $13 of public health benefits. DERA also helps reduce our dependence on foreign oil. From projects funded in just the first year of the program, EPA estimates that the country will save more than 3.2 million gallons of fuel annually. This means that truckers and other diesel operators will spend $8 million less on fuel, and reduce their CO_2 emissions by 35,600 tons per year.

DERA also helps create jobs in the U.S. For every $500 million spent on diesel retrofit technology, DERA saves or creates on average almost 10,000 jobs. It also has facilitated the development of emerging cleaner technologies.

Given these benefits, it is not surprising that on November 9 a coalition of 538 companies and organizations representing manufacturing and business interests, environmental and health-based organizations, faith and labor groups, and State and local agencies wrote to House members to urge reauthorization of the Diesel Emissions Reduction Act, DERA. This reauthorization of DERA has strong bipartisan support, which has been a hallmark during its enactment and annually during the appropriations process.

Despite the significant benefits from DERA, today's bill sets the authorization level for 2012 through 2016 at half the level of that for 2007 through 2011. The authorizing level is being reduced so that it is more in line with the levels that are normally appropriated for this program.

□ 1030

It is not an indication that this Congress believes that the need for the program has decreased nor is it an indication that appropriated levels should be decreased. The Diesel Emissions Reduction Act has been a successful program that has widespread support and has produced significant benefits. I hope you will join me today in voting to reauthorize it.

I reserve the balance of my time.

Mr. BURGESS. I yield myself such time as I may consume.

Madam Speaker, it is somewhat ironic that here we are, almost poetic, like a line from a Robert Frost poem: on the shortest evening of the year, here we stand in the darkened wood, two roads diverge in front of us.

This Congress should be over. This Congress should have been over a month ago. But here we still are, continuing to pass legislation that is going to affect the lives of Americans well into this decade. And you have to ask yourself: Why is it that we are here doing this at this time?

Now, the bill before us is not necessarily bad policy. In fact, it was part of the Energy Policy Act of 2005. I voted in favor of that bill in 2005, and this reauthorizes a segment of it to deal with diesel emission reductions. And, all in all, it has been a good program.

The chairman is right; the amount of appropriations that are being authorized has been reduced from what was originally prescribed under the Energy Policy Act of 2005, and, all in all, that is a good thing. It is attributable to the fact that this has been a successful program and that its need going forward is less than what it was in 2005.

The chairman is also quite correct; diesel engines have a long life. They are a marvel of engineering. I have businesses in my district. Floyd McNeely, in my district in Fort Worth, runs a diesel refurbishing plant where he takes old run-out diesel engines and puts new life into them. Because of Environmental Protection Agency constraints, he can't sell them in this country but actually is able to sell them to countries in Central and South America, and they continue to perform good works, both in trucks and boats and other mechanical applications. Because of the long life of diesel engines, this program is indeed a reasonable one because it does reduce the diesel emissions from those engines that have been in use and provided gainful employment for a long period of time.

I am pleased the authorization was reduced. I am pleased that section 3 of this legislation before us authorizes a General Accounting Office study as to whether or not the authorization is even necessary going forward into the next period of authorization. It is important to make certain that this legislation stays on the right track.

Of course, as with many things in Washington, this legislation is supported by a broad coalition of environmental, science-based, public health, industry, and State and local government groups, all of which stand to benefit from this legislation. The American people, indeed, stand to benefit from this legislation because of the reduced amount of particulate emissions in older diesel engines.

But it still negates the fact that we shouldn't even be here in the first place. This Congress should have died a merciful death after being repudiated by the American people in the last election, and yet here we are, late into December, continuing to enact policies that are going to affect American lives well into this decade and probably decades beyond.

The American people spoke loudly with one voice and with extreme clarity on November 2 of this year. They said: Congress, stop. You've done enough damage. Go home and let us send new people to do the job.

Well, the new people are waiting in the wings, 80 freshmen on my side, ready to take the reins of power. Yet here we are at the 11th hour continuing to push policy across the floor. Whether it be good or bad policy at this point is not the point. The point is this Congress should have long ago gone home and wrapped up its business.

I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, we are paid until the end of the year. We are here to do our job. The American people said to work things out on a bipartisan basis. That is what we have done with this legislation.

I am pleased to yield 5 minutes to my good friend from southern California (Ms. RICHARDSON).

Ms. RICHARDSON. Madam Speaker, I rise today in support of the Senate amendments to H.R. 5809, the Senate version of the Diesel Emissions Reduction Act of 2010. As author of H.R. 6482, the House companion to the Senate bill, S. 3973, I urge my colleagues to join me in supporting this legislation.

I would argue that this legislation was not just brought up in the lame duck session. In fact, I have staff members here who worked a great deal of time with the Energy and Commerce Committee to bring forward this very thoughtful legislation. What this legislation will do is create jobs, save lives, and significantly improve the Nation's air quality system.

I wish to thank Chairman WAXMAN and Chairman MARKEY and their staffs for their support and everything they have done to make it possible to bring this bill to the floor. It is important. People's health is important, even today in a lame duck session. I also appreciate the efforts of Senator VOINOVICH and Senator CARPER in shepherding this bill through the Senate.

This legislation reauthorizes and extends DERA for an additional 5 years and includes several important modifications to expand the program and increase eligibility. DERA has proven to be successful, and this is why we are bringing this bill forward today, in reducing diesel emissions by upgrading and modernizing older diesel engines and equipment.

You might ask: Why is this important to me in my particular district and in California and in the Nation? Well, I'll tell you why. Our district is home to the two busiest container ports in the United States: the Port of Los Angeles and the Port of Long Beach. On average, 35,000 trucks commute to and from the ports daily, and by the year 2030 this number is expected to triple.

Those living along freight corridors in my district are already suffering from asthma and cancer rates far above the national average. Air quality improvement and reductions in emissions are vital to the quality of life and health for those who live along the goods movement corridors.

The immediate and long-term benefits of passing the DERA 2010 Act are substantial, both in my district and in the Nation. Additionally, the Diesel Emissions Reduction Act of 2010 provides economic incentives that all of our State and local governments need right now, with their private fleets that contract with State and local governments, to decrease emissions still while maintaining and expanding their levels of service.

Since DERA was funded back in 2007, more than 3,000 projects nationwide have benefited from this very program. The EPA has estimated that the program averages more than $13 in savings, yes, savings, in health and economic benefits for every $1 in funding, and this reauthorization even further emphasizes cost-effective programs. Moreover, projections estimate that nearly 2,000 lives will be saved by 2017 in direct relation to DERA's impact on air quality.

This legislation has been endorsed by leading environmental, health, and transportation organizations who have argued that DERA is an effective program that protects and creates American jobs.

I would like to include in the RECORD a letter supporting this legislation signed by over 500 leading environmental, health, and transportation organizations and companies.

Members in both Chambers and on both sides of the aisle have embraced this legislation. I urge my colleagues to support it again today.

November 9, 2010.

Hon. LAURA RICHARDSON,
House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN RICHARDSON: As a uniquely broad coalition of environmental, science-based, public health, industry, labor and state and local government groups, we are writing in support of efforts to reauthorize the Diesel Emission Reduction Act (DERA), scheduled to expire at the end of fiscal year 2011. The program has been extremely successful in providing cost-effective public health and environmental benefits.

Diesel-powered vehicles and equipment play an important role in the nation's economy and are getting cleaner every day. DERA, originally enacted in 2005 with overwhelming bipartisan support, was designed to reduce emissions from the 20 million existing diesel engines in use today by as much as 90 percent.

Since enactment, DERA has been successful from an economic, environmental and public health perspective, yielding one of the greatest cost-benefit ratios of any federal program, according to the Office of Management and Budget calculations. In a recent Report to Congress on the first year of the DERA program, the Environmental Protection Agency (EPA) estimates that for every dollar spent on the DERA program, an average of more than $20 in health benefits are generated. Every state in the nation now has a diesel retrofit program and benefits from DERA funding.

As a result of the program's success, DERA benefits from extensive broad-based support. Over 350 diverse companies and organizations from across the country have signed letters in support of DERA. In addition, the U.S. Conference of Mayors, the National Association of Counties and the National Conference of State Legislatures all adopted policies at their annual meetings this summer calling on Congress to reauthorize the Diesel Emissions Reduction Act. We encourage you to prioritize passage of this successful bi-partisan program the next time Congress is in session to ensure continued benefits for all.

We strongly support efforts to reauthorize the program for an additional five years at the current authorized level of funding along with a few modest changes. Changes proposed in draft legislation will make the program more effective by streamlining the grant process, improving EPA's administration, removing outdated language, and ensuring full consideration of the congressional policies and priorities established in the law.

We urge you to support efforts to reauthorize the Diesel Emission Reduction Act (DERA), by cosponsoring legislation once introduced, to ensure the continuation of this widely successful, cost effective program.

Sincerely,

Action for Regional Equity; Action United; AGC of Minnesota; AJC-Palm Beach County Regional Office; Alabama State Port Authority; Alban Tractor Company, Inc.; Albany Port District Commission, Alivio Medical Center; Allied Grape Growers; Almond Hullers & Processors Association; Alternatives for Community and Environment (ACE); Amalgamated Transit Union Local 241; American Association of Port Authorities (AAPA); American Lung Association; American Lung Association in Alabama; American Lung Association in Alaska; American Lung Association in Arizona; American Lung Association in Arkansas; American Lung Association in California; American Lung Association in Colorado.

American Lung Association in Connecticut; American Lung Association in DC; American Lung Association in Delaware; American Lung Association in Florida; American Lung Association in Georgia; American Lung Association in Hawaii; American Lung Association in Idaho; American Lung Association in Illinois; American Lung Association in Indiana; American Lung Association in Iowa; American Lung Association in Kansas; American Lung Association in Kentucky; American Lung Association in Louisiana; American Lung Association in Maine; American Lung Association in Maryland; American Lung Association in Massachusetts; American Lung Association in Michigan; American Lung Association in Minnesota; American Lung Association in Mississippi; American Lung Association in Missouri.

American Lung Association in Montana; American Lung Association in Nebraska; American Lung Association in Nevada; American Lung Association in New Hampshire; American Lung Association in New Jersey; American Lung Association in New Mexico; American Lung Association in New York; American Lung Association in North Carolina; American Lung Association in North Dakota; American Lung Association in Ohio; American Lung Association in Oklahoma; American Lung Association in Oregon; American Lung Association in Pennsylvania; American Lung Association in Rhode Island; American Lung Association in South Carolina; American Lung Association in South Dakota; American Lung Association in Tennessee; American Lung Association in Texas; American Lung Association in Utah; American Lung Association in Vermont; American Lung Association in Virginia.

American Lung Association in Washington; American Lung Association in West Virginia; American Lung Association in Wisconsin; American Lung Association in Wyoming; American Road & Transportation Builders Association; Appalachian Voices; Artic Breeze/Hammond Air Conditioning Limited; Associated California Loggers; Associated Equipment Distributors; Associated General Contractors of America (AGC); Associated General Contractors of Greater Milwaukee; Association of American Railroads; Association of Equipment Manufacturers; Asthma Regional Council; Atlanta Bicycle Coalition; Autotherm Division Enthal Systems Inc.; B.R. Williams, Inc.; Baltimore Nonviolence Center; BASF Catalyst LLC; Baumot North America, LLC.

Bay Area Air Quality Management District; Beaverton Schools Transportation; Beck Bus Transportation; Bell Associates International LLc; Beverly Unitarian Church; Bike Pittsburgh; Bikes Not Bombs; Blue Diamond Growers; Boston Climate Action Network (BostonCAN); Boston Healthy Homes and Schools Collaborative; Brattain International Trucks, Inc.; Breast Cancer Action Coalition; Breathe Clean Air Action Team (BCAAT, Inc.); Brett Hulsey, Dane County; Supervisor, District 4; California Association of Wheat Growers; California Cattlemen's Association; California Citrus Mutual; California Cotton Ginners Association; California Cotton Growers Association; California Dairy Campaign; California Farm Bureau Federation; California Grape & Tree Fruit League; California Partnership for the San Joaquin Valley, Air Quality Work Group; California Rice Commission.

California School Transportation Association; California Women for Agriculture; Campbell Maritime, Inc.; Canary Coalition; Capitol Underground, Inc.; Carolina Green Food Service Supply; Cascade Sierra Solutions—Coburg, OR Branch; Cascade Sierra Solutions—Fontana, CA Branch; Cascade Sierra Solutions—National; Cascade Sierra Solutions—Portland, OR Branch; Cascade Sierra Solutions—Sacramento, CA Branch; Cascade Sierra Solutions—Seattle, WA Branch; Catalytic Solutions, Inc.; Caterpillar Inc.; Center for Biological Diversity; Center for the Celebration of Creation (Philadelphia, PA); Central Valley Air Quality Coalition (CVAQ); Charlotte Area Bicycle Alliance.

Charlotte Energy Solutions; Chelsea Board of Health; Chelsea Collaborative, Inc; Chelsea Creek Action Group; Chelsea Green Space and Recreation Committee; Chesapeake Climate Action Network; Chestnut Ridge Transportation, Inc.; Chicago Area Clean Cities; Childhood Lead Action Project; Citizen Action/Illinois; Citizen Power; Citizens Against Ruining the Environment; Citizens Environmental Coalition; Citizens for Pennsylvania's Future (PennFuture); City of Pittsburgh; City of Westland, Michigan; Cleaire Advanced Emissions Controls; Clean Air Board of Central Pennsylvania; Clean Air Carolina; Clean Air Council.

Clean Air Partnership; Clean Air Task Force (CATF); Clean Air Watch; Clean Energy Coalition (MI); Clean Fuels Ohio; Clean New York; Clean Water Action—California; Clean Water Action—Chesapeake Region; Clean Water Action—Colorado; Clean Water Action—Connecticut; Clean Water Action—Florida; Clean Water Action—Michigan; Clean Water Action—National; Clean Water Action—Pennsylvania; Clean Water Action—Rhode Island; Clean Water Action—Texas; Clean Water Action Alliance of Massachusetts; Cleveland County Asthma Coalition (NC); Coalition for Responsible Transportation (CRT); Coalition of Labor, Agriculture and Business—Imperial.

Commuter Challenge; Connecticut Citizen Action Group; Constructors Association of Western Pennsylvania; Consulting for Health, Air, Nature, and a Greener Environment (CHANGE); Consumer Health Coalition; Corning Incorporated; Craufurd Manufacturing, LLC; Cummins Atlantic, LLC;

Cummins Bridgeway LLC; Cummins Cal Pacific, LLC; Cummins Crosspoint, LLC; Cummins Inc.; Cummins Mid-South, LLC; Cummins Northeast, LLC; Cummins Northwest, LLC; Cummins NPower LLC; Cummins Power South, LLC; Cummins Power Systems, LLC; Cummins Rocky Mountain, LLC; Cummins Southern Plains, LLC.

Cummins West, Inc.; DC Environmental Network; Dean Transportation; Deere & Company; Dell Transportation; Developing Communities Project; Diesel Technology Forum (DTF); Donaldson Company; Dorchester Environmental Health Coalition (DEHC); Dousman Transport Company, Inc.; Duluth Seaway Port Authority; Durham School Services LLC; E Global Solutions, Inc. (EGS); Earth Day Coalition; Earth Force, Inc.; Earthjustice; East Michigan Environmental Action Council; Eaton Corporation; ECO-Action; Ecology Center.

Ecumenical Ministry of Oregon; Educational Bus Transportation, Inc.; Emissions Control Technology Association (ECTA); Emisstar LLC; EnergyCel; EnergyXtreme; Engine Control Systems Limited; Engine Manufacturers Association (EMA); Environment Maryland; Environment North Carolina; Environment Northeast; Environment Ohio; Environment Oregon; Environment Rhode Island; Environmental Advocates of New York; Environmental Defense Fund; Environmental Health Fund; Environmental Health Watch (OH); Environmental Justice League of Rhode Island; Environmental Justice Partnership.

Environmental Law and Policy Center; Espar Heater Systems; Evangelical Diocese of the Northwest; Farmworker Association of Florida; First Student; FitzGerald Corp.; Foss Maritime Company; Fowler Bus Company, Inc.; Freight Wing Inc.; Fresno County Farm Bureau; Friends of the Earth; Friends of the Moshassuck (RI); GA Women's Actions for New Directions; Georgia Mining Association; Georgia Women's Action for New Directions (GA WAND); Gladstein, Neandross & Associates; Gordon Trucking, Inc.; Great Land Conservation Trust; Greater Four Corners Action Coalition (GFCAC); Greater Lansing Area Clean Cities; Green Communities Coalition.

Green Cycle Group—Northeastern Illinois University; Green Decade Cambridge; Green Medford (Medford, MA); Green Sanctuary Group; GreenLaw; Greenpeace; Groundwork Lawrence; Groundwork Somerville; Group Against Smog and Pollution (Pittsburgh); Growth Through Energy + Community Health (GTECH); Health Resources in Action, Inc.; Healthy Chicago Lawn Coalition; Healthy Schools Campaign; Hendrickson Bus Corporation; Hill District Consensus Group; Howard Brown Health Center; Huntington Breast Cancer Action Coalition; Huntington Coach Corporation; Idle Free Systems Inc.; Illinois Association of School Nurses.

Illinois Environmental Council; Illinois Maternal and Child Health Coalition; Illinois Public Health Association; Illinois Public Interest Research Group (PIRG); Illinois School Transportation Association; Imperial Valley Vegetable Growers Association; Inland Power Group (Butler, WI); Institute for Local Self-Reliance; InterMotive, Inc.; Interreligious Eco-Justice Network (Connecticut's Interfaith Power and Light); Jaco Transportation, Inc.; James Ginda, MA, RRT, AE–C, CHES; John Engen, Mayor—Missoula, Montana; Johnson Matthey, Inc.; Kern County Farm Bureau; Kings County Farm Bureau; Kobussen Buses Ltd.; Krapf Bus Companies; KyotoUSA; Lawrence Mayor's Health Task Force; Leadership Council of the Congregation of the Sisters, Servants of the Immaculate Heart of Mary; Leonardo Academy Inc.; Liqtech NA; LivableStreets Alliance.

M & M Bus Service, Inc.; M.A.Turbo/Engine Ltd.; MA Republicans for Environmental Protection; Madeline Island Ferry Line; Madera County Farm Bureau; Makah Tribe; Mankato Area Environmentalists; MANN+HUMMEL; Manufacturers of Emission Controls Association (MECA); Maryland Port Administration—Port of Baltimore; Maryland Public Interest Research Group (PIRG); Massachusetts Climate Action Network; Massachusetts Port Authority; Mattabeseck Audubon Society; McHenry Pressure Cleaning Systems; McLean Contracting Company; Mecklenburg County, NC, Board of County Commissioners; Merced County Farm Bureau; Metrolina Biofuels; Metropolitan Mayors Caucus Clean Air Counts Campaign.

Michigan Citizen Action; Michigan Environmental Council; Michigan Infrastructure & Transportation Association; Michigan Interfaith Power and Light; Michigan League of Conservation Voters; Middlesex Clean Air Association; Mid-Ohio Regional Planning Commission (MORPC); Minnesota Center for Environmental Advocacy; Minnesota Clean Water Action Alliance; Minnesota School Bus Operators Association; MIRATECH Corporation; Mississippi State Port Authority; Mobile Bay Audubon Society; Montana Association of Churches; Montana Public Health Association; Mothers & Others for Clean Air (GA); MTU Detroit Diesel Inc.; MV Student Transportation; National Association for Pupil; Transportation (NAPT); National Association of Clean Air Agencies (NACAA); National Association of Counties; National Association of Manufacturers.

National Association of State Directors of Pupil Transportation Services; National Association of Waterfront Employers (NAWE); National Ground Water Association; National School Transportation Association; Natural Resources Council of Maine; Natural Resources Defense Council (NRDC); Navistar, Inc.; NC Conservation Network; NC Pediatric Society; NC WARN; Near Northwest Neighborhood Network; Neighborhood of Affordable Housing (NOAH); Neighborhood Planning Unit H Health Committee; New Jersey Clean Cities Coalition; New Jersey Environmental Federation (State Chapter of Clean Water Action); New York Association for Pupil Transportation; New York Public Interest Research Group (NYPIRG); NGK Automotive Ceramics USA, Inc.; Nine Mile Run Watershed Association; Nisei Farmers League.

North Carolina State Ports Authority; Northeast Ohio Clean Fuels Program; Northeast States for Coordinated Air Use Management (NESCAUM); Northwest Environmental Defense Center; Nose Cone Mfg. Co.; Nuestras Raices; NxtGen Emission Controls USA Inc.; NY Student Xpress; Ocean State Action (RI); Ohio Contractors Association; Ohio Environmental Council; Ohio League of Conservation Voters; Ohio Network for the Chemically Injured; One Less Car; Oregon Department of Environmental Quality; Oregon Environmental Council; Oregon Interfaith Power and Light; Oregon Physicians for Social Responsibility; Oregon Toxics Alliance; Oregon Trucking Associations; Pace Energy and Climate Center; Pacific Merchant Shipping Association; Pacific Northwest Waterways Association (PNWA); Parallel Housing, Inc.

Pennsylvania Council of Churches; Petermann LTD; Physicians for Social Responsibility—Sacramento; Physicians for Social Responsibility—Tampa Bay; Pierce Coach Line, Inc.; Pilsen Environmental Rights & Reform Organization; Pioneer Valley AFL–CIO; Pioneer Valley Asthma Coalition; Pitt County Memorial Hospital—Pediatric Asthma Program; Pittsburgh Interfaith Impact Network; Pittsburgh Region Clean Cities; Pittsburgh UNITED; Port Authority of New York & New Jersey; Port Everglades; Port of Corpus Christi Authority; Port of Everett; Port of Houston Authority; Port of Long Beach; Port of Los Angeles; Port of Oakland; Port of Pittsburgh Commission.

Port of Portland (OR); Port of San Francisco; Port of Seattle; Port of Tacoma; Portland, CT Clean Energy Task Force; Portland-River Valley Garden Club; Prevention is the Cure, Inc. (Huntington, NY); Progress Michigan; R.I.C.H.T.E.R. Foundation; Rachel Carson Institute; Rachel's Friends Breast Cancer Coalition; Regional Air Pollution Control Agency; Regional Environmental Council of Central Mass; Renewable Energy Long Island (RELI); Republicans for Environmental Protection; Respiratory Health Association of Metropolitan Chicago; Retail Industry Leaders Association; Rhode Island Chapter—Interfaith Power and Light; Rhode Island Chapter of the Sierra Club; Rhode Island Committee on Occupational Safety and Health (RICOSH); Rhode Island Nurses Association; Rhode Island Society for Respiratory Care.

Riteway Bus Service, Inc.; RJ Corman Railroad Group; Robert Bosch LLC; Rolling V Bus Corp.; Rush Truck Center—Abilene (TX); Rush Truck Center—Albuquerque (NM); Rush Truck Center—Alice (TX); Rush Truck Center—Ardmore (OK); Rush Truck Center—Atlanta (GA); Rush Truck Center—Austin (TX); Rush Truck Center—Chandler (AZ); Rush Truck Center—Dallas (TX); Rush Truck Center—Denver (CO). Rush Truck Center—El Centro (CA); Rush Truck Center—El Paso (TX); Rush Truck Center—Escondido (CA); Rush Truck Center—Flagstaff (AZ); Rush Truck Center—Fontana (CA); Rush Truck Center—Fort Worth (TX); Rush Truck Center—Greeley (CO).

Rush Truck Center—Haines City (FL); Rush Truck Center—Houston (TX); Rush Truck Center—Jacksonville (FL); Rush Truck Center—Laredo (TX); Rush Truck Center—Las Cruces (NM); Rush Truck Center—Lufkin (TX); Rush Truck Center—Mobile (AL); Rush Truck Center—Nashville (TN); Rush Truck Center—Oklahoma City (OK); Rush Truck Center—Orlando (FL); Rush Truck Center—Pharr (TX); Rush Truck Center—Phoenix (AZ); Rush Truck Center—Pico Rivera (CA); Rush Truck Center—San Antonio (TX); Rush Truck Center—San Diego (CA); Rush Truck Center—Sealy (TX); Rush Truck Center—Sylmar (CA); Rush Truck Center—Tampa (FL); Rush Truck Center—Texarkana (TX); Rush Truck Center—Tucson (AZ); Rush Truck Center—Tulsa (OK); Rush Truck Center—Tyler (TX); Rush Truck Center—Waco (TX); Rush Truck Center—Winter Garden (FL); Rypos, Inc..

Sacramento Metropolitan Air Quality Management District; San Joaquin Farm Bureau Federation; San Joaquin Valley Air Pollution Control District; San Luis Obispo County Air Pollution Control District; Santa Barbara County Air Pollution Control District; School Bus, Inc.; Science and Environmental Health Network; SD Johnston Engineering Consultants; Service Employees International Union Local 23 BJ; Pittsburgh; Shadowood Technology Inc; Shorepower Technologies; Sierra Club—Allegheny Group; Sierra Club, Atlantic Chapter; Somerville Climate Action; South Carolina Coastal Conservation League; South Carolina State Ports Authority; South Coast Air Quality Management District; South Shore Clean Cities, Inc. (Northern Indiana); Southern Alliance for Clean Energy; Southern Environmental Law Center.

Southwest Detroit—South Dearborn Environmental; Collaborative; Southwest Detroit Clean Diesel Collaborative; Southwest Detroit Community Benefits Coalition; Southwest Detroit Environmental Vision; Spokane

Regional Clean Air Agency; Stanislaus County Farm Bureau; Starcrest Consulting Group, LLC; State of Wisconsin Office of Energy Independence; Sunrise Bus Company; Sunrise Southwest, LLC; Sunrise Transportation; Sustainable Conservation; Sustainable Energy Alliance of Long Island; Sustainable Englewood Initiatives; Sustainable Pittsburgh; Tacoma Rail; Tampa Port Authority; Tenneco, Inc.; Tennessee Citizens for Wilderness Planning.

Tennessee Environmental Council; Tennessee Interfaith Power and Light; The Construction Institute; The TransGroup, LLC; Thomas Built Buses, Inc.; Toxics Information Project; Triangle Clean Cities Coalition; Truck Manufacturers Association; Tulare County Farm Bureau; Umicore Autocat USA Inc.; Union County Environmental Health (NC); Union of Concerned Scientists; United Food and Commercial Workers Union Local 23; United Motorcoach Association; United States Chamber of Commerce; University of Maryland for Clean Energy; Utah Clean Cities Coalition; Village of Oak Park, Illinois; Virginia Port Authority; Vision Transportation Services, Inc.; Voices for Earth Justice; Volvo Group North America.

Wake County Asthma Coalition; Washington State Department of Ecology; Western MA Jobs with Justice; Western Massachusetts Coalition for Occupational Safety and Health; Western N.C. Physicians for Social Responsibility; Western States Petroleum Association; Western United Dairymen; WI. Engine Manufacturers & Distributors Alliance; WIH Resource Group; Wisconsin Clean Cities—Southeast Area, Inc.; Women for a Healthy Environment; Women's Voices for the Earth; Yakima Regional Clean Air Agency; Yancey Power Systems; Zeeland Public Schools.

Mr. BURGESS. I yield myself such time as I may consume.

Madam Speaker, I would only point out, certainly I have no objection to working. In fact, in my prior life as a physician I worked many Christmases, many New Years, many Fourth of Julys, Mothers Days, and Veterans Days. But the fact is here we are at the 11th hour, probably on the next to the last day before this Congress dies a merciful death, and here we are passing legislation that, in fact, we have not had a hearing on in our committee. We have not had a markup on this legislation in our committee.

Several of us in the room right now are members of the Energy and Commerce Committee. I argue passionately during our committee hearings and markups that it is probably the committee with the most expertise in the whole United States Congress, and yet we didn't have a hearing to ask the simple question: Okay. We passed this legislation as part of the Energy and Policy Act in August of 2005 when it was signed into law by then President Bush. How has it done? How has it worked out? Has it performed as requested?

I can't argue the fact that this isn't a good proposal. I voted for it in 2005. I suspect it is a good proposal. But wouldn't it have been great to have a hearing, to have a markup? But, instead, we bring this bill to the floor at the 11th hour right before this Congress is to adjourn, thankfully, for the last time, and Members are expected to vote on it up or down. It is a travesty to do things in this way, and I hope things will change for the better in the next Congress.

Ms. MATSUI. Madam Speaker, I rise today in support of legislation that I introduced, along with Congresswoman RICHARDSON, which would reauthorize the Diesel Emissions Reduction Act, DERA, to fund the modernization of diesel engines through retrofits.

Countless studies have shown that diesel emissions are one of the most significant health risks to Americans. More specifically, the Environmental Protection Agency, EPA, has linked these emissions to premature death, aggravation of symptoms associated with asthma, and numerous other health impacts every year.

To address this problem, in 2005, Congress enacted the Diesel Emissions Reduction Act, which established a five-year voluntary national and state-level grant and loan program to reduce diesel emissions, protect public health, and help states meet air quality standards of the Clean Air Act.

Retrofitting diesel engines provides enormous environmental benefits, yet before this program was implemented, there were few direct economic incentives for vehicle and equipment owners to do so. The financial incentives provided by DERA support voluntary rather than regulatory efforts to assist states meet current air quality standards. Reauthorization of this critical program, which cleans up more than 14,000 diesel-powered vehicles and equipment annually, would strengthen our ongoing efforts to reduce pollution, create additional demand for clean diesel technology, and employ thousands of workers who manufacture, sell or repair diesel vehicles and their components.

It is for these reasons that the DERA program, which averages more than $13 in health and economic benefits for every $1 invested according to the EPA, needs to be reauthorized.

I would be remiss if I did not recognize Senators VOINOVICH and CARPER for authoring the DERA reauthorization program in the Senate, and to commend them for their outstanding leadership on this important issue. Their legislation served as the counterpart to the measure we introduced in the House of Representatives.

H.R. 5089, which was unanimously approved by the other chamber, has garnered the support of a broad coalition of more than 530 environmental, public health, industry and labor stakeholders.

In closing, I urge my colleagues to join me in improving America's air quality by upgrading and modernizing older diesel engines by voting in favor of H.R. 5089.

Mrs. CHRISTENSEN. Madam Speaker, I rise in support of S. 3973, the reauthorization of the Diesel Emissions Reduction Act, a successful program that I strongly believe will make a major difference in lowering energy costs for consumers in all territories.

I am pleased that the program includes entities in the smaller territories, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and the U.S. Virgin Islands for the first time.

While we are not at the level that we need, we pledge to fight for better inclusion in the future and do recognize that this is an important first step for the territories, which rely considerably on fossil fuels, including diesel.

As the country transitions to a clean energy economy, I am sure that we all can agree that it is only fitting that all jurisdictions under the U.S. flag are able to take part in national and state diesel emissions reduction grant and loan programs. Though the Energy Policy Act of 2005 has achieved much in ensuring that states qualify for grant and loan programs, geared towards reducing diesel emissions—today's reauthorization of the DERA will go a long way to ensure that all U.S. citizens are able to tap into the resources necessary to relieve the burdens associated with the combustion of dirty fossil fuels.

Reducing emissions from diesel engines is one of the most important air quality challenges facing the U.S. and its territories. Though it is undeniable that diesel engines have proven to be an invaluable resource over the years, it is high time that we reevaluate our over dependence on this fuel source—and look towards more sustainable alternatives.

As we are all aware, these engines emit large amounts of nitrogen oxides, particulate matter and air toxins, resulting in serious public health concerns.

Much of our heavy machinery and school buses are operated by diesel engines that do not meet EPA's clean diesel standards. Extension of the diesel emission reduction provisions will not only help to further current commitments to reduce air pollution but will make great strides in protecting our communities' health and that of future generations. Inclusion of all the territories in the DERA reauthorization would provide our jurisdictions with the opportunity to access currently unavailable resources necessary to retrofit existing equipment and implement new emissions control technologies.

At this time I would applaud the authors of this bill and thank Chairman WAXMAN and Energy and Commerce Committee staff for their leadership in ensuring that the territories are included in this important bill. I would also like to recognize the CNMI, Guam, American Samoa and Puerto Rico delegations for their tireless efforts on this issue as well.

Mr. MARKEY of Massachusetts. Madam Speaker, I rise in support of the Diesel Emission Reduction Act of 2010. This bill would reauthorize the extremely successful Diesel Emission Reduction Act, known as "DERA", enacted as part of the Energy Policy Act of 2005 and administered by the Environmental Protection Agency. Since its creation the DERA program has provided Federal grants and loans to support more than 3,000 projects to retrofit diesel engines to reduce pollution. The emissions reductions achieved by DERA have resulted in over $600 million in public health benefits so far. The program has provided over $13 in health and economic benefits for every $1 spent on retrofits, and has created or sustained nearly 9,000 jobs since Fiscal Year 2008.

The legislation now before us would reauthorize the DERA program through Fiscal Year 2016 and would make a number of important improvements. Notably it would allow EPA to establish a rebate program, alongside the existing grant and loan program. It would also allow private entities under contract with a non-profit or government to apply directly for funding, instead of limiting the program to government entities. These improvements will help this program to continue to clean our air and protect public health from diesel pollution.

This is a bipartisan bill championed by Senators CARPER and VOINOVICH and deserves our support. I urge a ''yes'' vote.

Mr. JOHNSON of Georgia. Madam Speaker, I rise in support of 5809, the Diesel Emissions Reduction Act. This legislation will reauthorize an important program that establishes a voluntary national and state-level grant and loan program to reduce emissions from existing diesel engines through clean diesel retrofits.

This reauthorization is particularly important for the citizens of my home State of Georgia who face the 15th highest risk of premature death due to diesel soot, when compared to the lower 48 states. According to the Clean Air Task Force, diesel soot in Atlanta leads to 335 premature deaths, over 14 thousand asthma attacks, and over 250 cases of chronic bronchitis. The cancer risk of breathing diesel soot in Atlanta is 442 times the EPA's acceptable cancer level of 1 in a million. These figures are appalling and unacceptable.

The Diesel Emissions Reduction Act has supported the cleanup of diesel engines throughout Georgia and every state in the union. Passage of this bill will improve health outcomes and save on health care costs across the country and that is why I urge my colleagues to vote yes.

□ 1040

Mr. BURGESS. As the gentleman knows, I can talk on this until my time has expired, but in the interest of comity and the spirit of the season and peace on Earth, good will toward men, I will yield back the balance of my time.

Mr. WAXMAN. Notwithstanding the fact the gentleman yielded back his time, I want to now use the remainder of mine, but I won't, even though I could, but in the interest of comity and good will, I won't complain, I won't go on, I will simply yield back my time and urge Members to support this worthwhile piece of legislation, which is now being, hopefully, passed for the second time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 5809.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DEFENSE LEVEL PLAYING FIELD ACT

Mr. INSLEE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6540) to require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6540

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 ''Defense Level Playing Field Act''.

SEC. 2. CONSIDERATION OF UNFAIR COMPETITIVE ADVANTAGE IN EVALUATION OF OFFERS FOR KC–X AERIAL REFUELING AIRCRAFT PROGRAM.

(a) REQUIREMENT TO CONSIDER UNFAIR COMPETITIVE ADVANTAGE.—In awarding a contract for the KC–X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall, in evaluating any offers submitted to the Department of Defense in response to a solicitation for offers for such program, consider any unfair competitive advantage that an offeror may possess.

(b) REPORT.—Not later than 60 days after submission of offers in response to any such solicitation, the Secretary of Defense shall submit to the congressional defense committees a report on any unfair competitive advantage that any offeror may possess.

(c) REQUIREMENT TO TAKE FINDINGS INTO ACCOUNT IN AWARD OF CONTRACT.—In awarding a contract for the KC–X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall take into account the findings of the report submitted under subsection (b).

(d) UNFAIR COMPETITIVE ADVANTAGE.—In this section, the term ''unfair competitive advantage'', with respect to an offer for a contract, means a situation in which the cost of development, production, or manufacturing is not fully borne by the offeror for such contract.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. INSLEE) and the gentleman from Kansas (Mr. MORAN) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. INSLEE. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. INSLEE. Madam Speaker, I yield myself such time as I may consume.

We have another great bipartisan success today, at the closing day of our Congress, and I want to thank Representatives LARSEN, BLUNT, TIAHRT, MORAN, and MCDERMOTT for bringing this bipartisan bill to the floor. This bill is the Defense Level Playing Field Act, which will incorporate in standalone legislation an amendment we adopted with huge bipartisan support previously by a vote of 410–8 on the defense authorization bill.

This bill is very important to bring a level of fairness and competitiveness from a job creation perspective to the tanker contract, which is now one of the largest procurement contracts in American history, a $35 billion contract providing for 179, and ultimately 400, aerial refueling planes, which will replace the Eisenhower-era tankers, which is so critical to our Nation's skeleton and backbone of our Nation's defense.

I note the basic thrust of this bill is to make sure that in our procurement process that we have fairness—fairness both to the law and fairness to the American workers, who are so successful. And one of the bidders we hope to be so successful with is the Boeing 767 platform, which will be fully capable of continuing the tradition of American provision of the very backbone of our American fleet and providing our tankers.

I want to make four points about what this bill will do. Basically, what this bill will do is require the Defense Department to take into consideration any unfair competitive advantage of any of the bidders in this contract. What basically this bill will do is require that the Pentagon take into consideration any unfair competitive advantage enjoyed by either of the bidders, Boeing or the Airbus consortium, and that is defined as costs of development, production, or manufacturing that are not fully borne by the offeror of any such contract.

Obviously, what gave rise to this amendment was the fact that we have found that there were over $5 billion of illegal, unfair competitive advantage that has been enjoyed by one of the contractors, the Airbus consortium.

But I want to make four points about what our bill does. Number one, our bill basically says that we need a fair competition. We are happy to compete as Americans. We love competition. We're happy to compete, but we need to do it on a level playing field. And this bill is very fair because it says that any unfair competitive advantage of either of the bidders needs to be taken into consideration in this bill. We love competition, but it needs to be fair.

Second, this bill is fair to both sides, Boeing and Airbus, America and Europe, because it requires an unfair competitive advantage from either bidder to be taken into consideration. And it is WTO-compliant. We were careful to draft the bill with that in mind.

Third, this is an enormous contract, and there have been enormous unfair competitive advantages bestowed on one of the bidders—frankly, Airbus. The $5 billion of illegal subsidies that we have found come out to somewhere between 27 and $5 million an airplane. This is an extraordinarily unfair advantage that one of the bidders has been given, and we need to take that into consideration.

Fourth, the job importance of this issue cannot be overstated. It is estimated that 62,000 jobs could hang in the balance if we allow these illegal subsidies not to be remedied in this procurement contract. American workers have built the best airplanes. They're ready to do it. And we're not going to allow tens of thousands of jobs to be lost based on illegal subsidization by our friends in Europe.

Now we have standalone legislation. We look forward to giving the Senate every opportunity to act on this.

With that, I reserve the balance of my time.

Mr. MORAN of Kansas. Madam Speaker, I yield myself such time as I may consume.

I rise to support the legislation introduced by the gentleman from Washington, and I appreciate his explanation for what this legislation does. I am here to encourage my colleagues both in the House and the Senate to support this legislation to level the playing field in the Air Force tanker competition. This is an unending story, presumably. It has gone on for a long time. But at this stage in the process, we need to make certain that there is fairness. We need fairness for our workers, fairness for American companies, and fairness for the American taxpayer.

Earlier this year, the World Trade Organization found that European governments are guilty of providing nearly $6 billion in illegal subsidies to Airbus to develop aircraft. These subsidies can put our American workers at a disadvantage in the world marketplace. Tens of thousands of U.S. aerospace jobs have already been lost overseas; the Department of Defense, we risk job loss in the $35 billion tanker competition with these subsidies. In Wichita, Kansas, alone, where the finishing center for the new Boeing tanker will take place, the tanker contract could mean 7,500 jobs.

Common sense today tells us that when we are so desperate for employment in the United States, we need to make certain that the competition we are engaged in is based upon fairness. But even with the WTO decision, the Department of Defense has ignored the facts. The Pentagon must not be working against millions of Americans who are looking for work, nor should our own government ask American taxpayers to foot the bill for a European economic stimulus.

The Defense Level Playing Field Act tells the Pentagon it can no longer close its eyes to the unfair European subsidies. This bill says that the tanker bidding process must be conducted fairly. Its intent is to require the DOD to take into account the price impact of illegal European subsidies. It makes sure that there is a level playing field so that no bidder, whether it's foreign or domestic, has an unfair competitive advantage.

American aerospace workers are ready to support our men and women in uniform with the best tanker, and they must be given a fair opportunity to do so. Please join me in standing up for the American worker and for the U.S. taxpayer by voting favorably for the Defense Level Playing Field Act.

I reserve the balance of my time.

Mr. INSLEE. Madam Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. I want to congratulate Mr. INSLEE and his leadership on this measure.

Madam Speaker, in a few short weeks, according to the latest news from the Pentagon, this tanker contract is expected to be awarded. Again, I don't think anyone can understate the impact over the decades that final outcome will have on the U.S. economy, particularly our aerospace industrial base.

□ 1050

As has been mentioned by prior speakers, the first tranche of contracts will be about $35 billion. In total, it is estimated to be about $100 billion just in manufacturing. Given the age of the existing tanker planes, the maintenance and repair work is probably another $100 billion if you look over the lifetime of this plane's existence.

So, for the American industrial base, the decision which the Pentagon is on the verge of announcing will have an impact decades hence, and it is extremely important for the American taxpayers that they be given total assurance that this decision is going to be made fairly and with the best interests of our country at heart.

If you would just step back and look at other weapons procurement programs, whether it is nuclear submarines, aircraft carriers, the Joint Strike Fighter, the notion that those contracts, that those weapons platforms would be awarded to foreign manufacturers that receive subsidies from their governments would be just laughable; but for some reason, in this instance, the Department of Defense has just turned a blind eye to the obvious unfairness which this bid process has produced.

So, again, what this very simple measure seeks to do is to put a big red warning flag up to the Pentagon to say, when this decision is made, for the sake of the American taxpayers, subsidies that have been found to be illegal will be taken into account in the final decision.

I urge strong support for this measure.

Mr. MORAN of Kansas. I continue to reserve the balance of my time.

Mr. INSLEE. Madam Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. I thank the gentleman from Washington.

I rise in support of this bipartisan legislation that will protect American jobs and ensure competitive fairness in the contract bid for the next aerial refueling tanker.

Madam Speaker, in May, the House voted overwhelmingly, 410–8, on a similar amendment to the defense authorization bill to require the Pentagon to take into account the illegal subsidies that have distorted this competition from day one.

The choice for the next-generation tanker contract is clear. We can give the contract to an American company, Boeing, and support an estimated 50,000-plus good, high-skilled jobs across this country, or we can give the contract to a European company, Airbus, thus creating tens of thousands of jobs in Europe. With unemployment where it is today, this should be a no-brainer.

In fact, since the last time this issue was brought to the floor, the WTO made a final ruling in the trade case brought by our government against the European Union. It ruled that billions of dollars in illegal European Government ''launch aid'' subsidies have been used by Airbus to develop every aircraft it has built. More than $5 billion of these subsidies made it possible for Airbus to launch the A330 it is offering for the tanker.

We need to ensure a fair, open, and transparent tanker competition. Our companies and our workers can compete against any in the world when there is a level playing field. I urge my colleagues to support this legislation ensuring that the Pentagon takes into account these illegal Airbus subsidies. We need to provide the best tanker for the Air Force, and we must not send these critical defense manufacturing jobs overseas.

Mr. MORAN of Kansas. Madam Speaker, once again, I reserve the balance of my time.

Mr. INSLEE. I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the distinguished gentleman.

Madam Speaker, I join my colleagues by admitting that competition is good, and I rise in support of competition.

Yet I also recognize as a member of the Manufacturing Caucus that Americans are ready and clamoring to build, and they want to produce and create. As they do that with their sophisticated technology, they create jobs. So I believe it is unfair that when there is a competition that our companies, in fact in our own country at the Pentagon, are competing against those companies that are subsidized.

So I rise in support of this legislation, H.R. 6540, which does not in any way hamper the ability of the Pentagon to do its work, but indicates that we can build the KC-X Aerial Refueling Aircraft Program by a company that we have, in this instance Boeing, of which I am very familiar, having worked extensively with it in the NASA Human Space Exploration Program.

Let us build again. Let us manufacture again. Yes, we will create jobs, but we will create and reinforce the genius of our young people who are being trained and of those scientists who have created topnotch technology.

To be on the front lines, men and women who are in the United States military need the best equipment to be able to create jobs and bring manufacturing back in this country. We need to have the competitiveness and an even playing field. No subsidies. Boeing can do it. We need to have the Pentagon recognize that America is back in the saddle again. We are building quality products, and we need to be able to build the KC-X Aerial Refueling Aircraft.

Mr. MORAN of Kansas. I continue to reserve the balance of my time, Madam Speaker.

Mr. INSLEE. Madam Speaker, I want to put in a good word for my comrade in arms, TODD TIAHRT. He isn't with us right at the moment, but he did great work on this—he has had a great career—as well as Mr. LARSEN.

A couple of closing comments.

I come from a Boeing family. My uncle's cousins have worked with Boeing products from the 707, to the 737, to the 727, to the 747. Now they hope to work on the 767 tanker product. So this is a hometown team issue for me, but it is an international issue as to whether or not we are going to have rules when we compete with our friends across the pond, and we are happy to compete no matter what team we are on. This simply insists that America will follow the rules in a fair competition. It is the right thing to do.

So, in that regard, Madam Speaker, I will note that sometimes Congress reserves the best in its legislation and the best in its speakers pro tem for the last, and I think that this is the best in both ways.

I continue to reserve the balance of my time.

Mr. MORAN of Kansas. Madam Speaker, I appreciate very much the comments that have been made today on the House floor.

Economically, there is no more important issue in the State of Kansas than the success or at least the opportunity to have success in this contract bidding process. It has been a long time that we have been waiting, and I hope the gentleman who spoke earlier who indicated that we are on the verge of a decision is accurate. This would be a great development, not only for the people of our State but for the people of our country if we learn that there are jobs to be created and that there is a manufacturing base to be further developed in the United States.

I very much appreciate the gentleman from Washington's indication that this bill is about a level playing field. It is not about awarding the contract. It is about giving fairness to the bidding process.

I hope that we have the opportunity, if the Senate will also pass this legislation again on the verge of a decision, to once again remind the Department of Defense of their responsibility to the will, not only of Congress for a level playing, but to the rightness of this cause, to the sense of fairness, for the right of justice, and for building the opportunity of job creation in this country, not only today but tomorrow as well.

With that, Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MILLER).

(Mr. MILLER of Florida asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Florida. I thank the gentleman for yielding.

Madam Speaker, I apologize to the House for being out of breath, but apparently this bill was brought up on the floor at the last minute and without anybody's knowledge. I don't know if it has been discussed, but I sit on the Armed Services Committee, and I would like to ask my friend from Kansas, if I may, Madam Speaker, Has the professional staff on the Armed Services Committee at all given their thoughts on the implication of this bill?

I can answer the question. I shouldn't have thrown it to you. The answer is ''no.''

The answer is ''no'' because it hasn't gone through regular order. This bill is not going through regular order. It is amazing to me that we are bringing something forward today, as you have been saying already, that has great implications to the national security of this country. The Armed Services Committee and the requisite subcommittees have not had an opportunity to talk about this particular piece of legislation.

□ 1100

We heard that this may come up last week. It didn't come up last week. Unfortunately, some of the Members who are very involved in this contracting issue had no idea this was coming to the floor today. I speak on their behalf. Some of those very Members are on airplanes flying to Washington, trying to come up here to be able to debate this particular piece of legislation.

But, again, it's business as usual for this House and in the waning days of the 111th Congress that we would bring pieces of legislation forward that impact Members all across this country, yet not give them the opportunity to come to the floor in a timely fashion and express their views.

I would urge my colleagues to vote against this particular piece of legislation.

Mr. MORAN of Kansas. I thank the gentleman for his comments.

I would point out to the House that an amendment to the defense authorization bill of a similar nature passed the House of Representatives by a vote of 408–10.

I would let the gentleman from Washington know that I have no other speakers and am prepared to close.

I reserve the balance of my time.

Mr. INSLEE. I just wanted to address Mr. MILLER's concern, wanted to advise him that we have been in discussions for the last several days with the current minority staff on the committee, who have all been well-advised about our intention to bring this in one way or another, either by UC or suspension, to the floor, and we've appreciated their cooperation in doing that.

I also want to advise Mr. MILLER that this is exactly the same language we did vote for, including the gentleman from Florida, in its previous incarnation in the Defense authorization bill. I hope that I can say this is a fairly noncontroversial issue in the House, and we hope that when the light of public interest is shone on the Senate that they will act on this as well on behalf of America.

Madam Speaker, I would reserve my time unless the gentleman has no further speakers.

Mr. MORAN of Kansas. I thank the gentleman from Washington for his comments today and look forward to this bill's passage. I encourage my colleagues to vote for it.

I, too, would like to recognize the work of my colleague from Kansas (Mr. TIAHRT) in his efforts on this topic over a long period of time and appreciate his leadership on behalf of the people of Kansas on this and many other issues.

Mr. HARPER. Madam Speaker, I was unable to participate during floor debate regarding H.R. 6540, The Defense Level Playing Field Act of 2010. I would like to place my statement into the RECORD:

It is now four days before Christmas and the Air Force is nearing completion of its evaluation of multiple offers to replace our aging tanker aircraft. We are in the ninth year of this effort to award a contract to replace the Air Force's existing tanker aircraft that have an average age of 50 years in service. I would remind my colleagues that we have airmen and airwomen of our Air Force risking their lives every day to perform the refueling mission across the globe in aircraft that were built and delivered when Dwight Eisenhower was President of the United States.

Why are we considering this legislation at this time? Do we dare take action on legislation, four days before Christmas, without proper Committee review, that will delay replacement of these aircraft? Are we being responsible to the men and women in uniform by bypassing completely the House Armed Services Committee? Are we, by considering adoption of this bill, creating a precedent for Congressional interference in an ongoing competition?

I would ask my colleagues—has anyone asked the Secretary of Defense if this legislation is needed? Has anyone asked Secretary Gates or the Chief of Staff of the Air Force how long it would further delay this contract award in the event it became law?

This House should not be here today, considering legislation of this kind without proper review and without full knowledge of its impact. The men and women serving in uniform, flying 50-year old aircraft, deserve better than to have this House—at the last stages of this competition—undertake an action which will further delay this contract moving forward.

Mr. MILLER of Florida. Madam Speaker, it is now four days before Christmas, and the United States Air Force is nearing completion of its evaluation of multiple offers for replacement tanker aircraft. We are now in the ninth year of effort to award a contract for the replacement of tanker aircraft that have an average age of 50 years in service. I would like to remind my colleagues that the men and women of our Air Force are risking their lives every day to perform the refueling mission across the globe in aircraft that were built and delivered when Ike Eisenhower was President of the United States!

How dare we take action, in the waning days of this Congress, without proper committee review, that will delay replacement of these aircraft? The men and women serving in uniform, flying 50-year old aircraft, deserve

better than to have this House—acting on behalf of one company, during the last stages of this competition—undertake an action, which will further delay this contract from moving forward.

I would ask my colleagues—has anyone asked the Secretary of Defense if this legislation is needed? Has anyone asked Secretary Gates or General Schwartz how long it would further delay this contract award in the event it becomes law? Are we, by considering adoption of this bill, creating a precedent for Congressional interference in an ongoing competition? It is absurd bringing this bill to the House floor while the impact of this legislation has yet to be reviewed and weighed.

This House should not be here today, considering legislation of this kind without proper review and without full knowledge of its impact. We certainly should not do so simply because one company—based in Washington State—thinks that they need to change the evaluation metrics at the last minute. If they have no airplane flying that can compete fairly, they should conduct their business better—and this House should refrain from interfering in an ongoing competition. I urge my colleagues to vote "no" on this amendment.

MR. MORAN of Kansas. I yield back the balance of my time

Mr. INSLEE. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. INSLEE) that the House suspend the rules and pass the bill, H.R. 6540.

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. MILLER of Florida. Madam 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.

PROTECTING STUDENTS FROM SEXUAL AND VIOLENT PREDATORS ACT

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6547) to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6547

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 at the "Protecting Students from Sexual and Violent Predators Act".

SEC. 2. BACKGROUND CHECKS.

Subpart 2 of part E of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901 et seq.) is amended by adding at the end the following:

"SEC. 9537. BACKGROUND CHECKS.

"(a) BACKGROUND CHECKS.—Each State that receives funds under this Act shall have in effect policies and procedures that—

"(1) require that criminal background checks be conducted for school employees that include—

"(A) a search of the State criminal registry or repository in the State in which the school employee resides and each State in which such school employee previously resided;

"(B) a search of State-based child abuse and neglect registries and databases in the State in which the school employee resides and each State in which such school employee previously resided;

"(C) a search of the National Crime Information Center of the Department of Justice;

"(D) a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and

"(E) a search of the National Sex Offender Registry established under section 19 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16919);

"(2) prohibit the employment of school employees for a position as a school employee if such individual—

"(A) refuses to consent to the criminal background check described in paragraph (1);

"(B) makes a false statement in connection with such criminal background check;

"(C) has been convicted of a felony consisting of—

"(i) homicide;

"(ii) child abuse or neglect;

"(iii) a crime against children, including child pornography;

"(iv) spousal abuse;

"(v) a crime involving rape or sexual assault;

"(vi) kidnapping;

"(vii) arson; or

"(viii) physical assault, battery, or a drug-related offense, committed within the past 5 years; or

"(D) has been convicted of any other crime that is a violent or sexual crime against a minor;

"(3) require that a local educational agency or State educational agency that receives information from a criminal background check conducted under this section that an individual who has applied for employment with such agency as a school employee is a sexual predator report to local law enforcement that such individual has so applied;

"(4) require that the criminal background checks described in paragraph (1) be periodically repeated; and

"(5) provide for a timely process by which a school employee may appeal the results of a criminal background check conducted under this section to challenge the accuracy or completeness of the information produced by such background check and seek appropriate relief for any final employment decision based on materially inaccurate or incomplete information produced by such background check, but that does not permit the school employee to be employed as a school employee during such process.

"(b) DEFINITIONS.—In this section:

"(1) SCHOOL EMPLOYEE.—The term 'school employee' means—

"(A) an employee of, or a person seeking employment with, a local educational agency or State educational agency, and who has a job duty that results in exposure to students; or

"(B) an employee of, or a person seeking employment with, a for-profit or nonprofit entity, or local public agency, that has a contract or agreement to provide services with a school, local educational agency, or State educational agency, and whose job duty—

"(i) is to provide such services; and

"(ii) results in exposure to students.

"(2) SEXUAL PREDATOR.—The term 'sexual predator' means a person 18 years of age or older who has been convicted of, or pled guilty to, a sexual offense against a minor.".

SEC. 3. CONFORMING AMENDMENT.

Section 2 of the Elementary and Secondary Education Act of 1965 is amended by adding after the item relating to section 9536 the following:

"Sec. 9537. Background checks.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H.R. 6547 into the RECORD.

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

There was no objection.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Madam Speaker, I rise today on behalf of all children in our country. I rise for all parents who send their children to school with the understanding that their children will be safe.

Last week, the Committee on Education and Labor released a disturbing, outrageous report from the Government Accountability Office highlighting cases where convicted sexual offenders were working at schools. In 11 of the 15 cases, sexual offenders who were hired or retained by schools had previously targeted children, and in six of those cases, the sex offenders used their job to target and abuse more children, and this is unacceptable.

This report is frightening insight into what happens when rules aren't followed or simply aren't in place. It showed that in many cases comprehensive background checks could have easily prevented these crimes from occurring. It also showed that some school districts knowingly passed on a potential predator to another school district, allowing the offender to resign instead of reporting him or her. It is outrageous that a sexual or violent predator of children can be passed from school to school.

The Government Accountability Office found that school systems either did not have complete information or, perhaps worse, chose to ignore the problem or to make it worse by providing positive recommendations about the employee, knowing that they had abused children in their care. In many places, the current system of ensuring our students' safety is broken. It has huge gaps that are allowing our children to be vulnerable to sexual predators.

Madam Speaker, this Congress can do more to protect our children. The Protecting Students from Sexual and Violent Predators Act will help keep our

children safe in school by requiring States to take commonsense steps. First, schools will be required to comprehensively conduct background checks for any employees using State criminal and child abuse registries and the FBI's fingerprint database.

Second, schools will be prohibited from hiring or retaining anyone who has been convicted of certain violent crimes, including crimes against children, crimes involving rape or sexual assault, and child pornography.

This bill will prevent more children from being put in unsafe environments because the adults who are responsible for their well-being failed to do their jobs.

A 2004 Department of Education report estimated that millions of students are subjected to sexual misconduct by school employees at some time between kindergarten and the 12th grade. Coupled with the findings of last week's GAO report, it is very clear that this legislation is absolutely critical. Parents have a right to believe that their children are safe in schools, and schools have an obligation to fulfill that promise.

This bill is only part of the solution, but it is an important step forward. The GAO report sent shock waves through households across the country. We owe it to parents and to the children and to the honorable school officials who follow the rules to pass this legislation. We also owe it to them to send a strong message that people who abuse children or do not do their jobs to keep children safe will face serious consequences.

I hope that the next Congress will be able to take an even more comprehensive approach to protect children in our schools, and I urge all of my colleagues to support this legislation.

I reserve the balance of my time.

Mrs. BIGGERT. Madam Speaker, I yield myself such time as I may consume.

I rise today to support H.R. 6547, a bill to require background checks for all public school employees. H.R. 6547 is designed to ensure States using Federal taxpayer resources to fund education are taking the necessary steps to ensure individuals with a history of criminal behavior are not able to slip through the cracks and be placed in positions of trust within our schools.

The bill requires States to have policies in place to conduct a check of the State criminal registry, a State-based registry of child abuse and neglect, the National Crime Information Center, an FBI fingerprint check, and a search of the National Sex Offender Registry on all public school employees in order to receive Federal funds under the Elementary and Secondary Education Act. The State-based checks must also be run for all States where an employee or prospective employee had previously resided.

Every Member of this Chamber wants to protect students from harm, and there is no excuse for schools not doing everything they can to ensure the safety of children in their care.

□ 1110

In fact, Congress has already acted on this issue by ensuring schools have access to national background checks in the Safe Schools Act, which was signed into law as part of the Adam Walsh Child Protection and Safety Act of 2006. This was a bill that was worked on in a bipartisan manner and passed by voice vote in both Chambers.

Unfortunately, the majority has chosen a different approach with the bill before us today. Instead of holding hearings or scheduling a markup to thoroughly discuss and vet this issue, they are rushing this bill to the floor for quick consideration at the end of Congress. This is not the best way to craft thoughtful legislation. But, despite our concerns about legislative process, we all agree that our students must be protected from sexual predators in their schools. And, therefore, I urge my colleagues to support this bill.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I would quickly say that I would like to thank the gentlelady from Illinois for her cooperation on this. I know this isn't the best process, but at the end of the session, having the Government Accountability Office report land on our desk on our watch, I felt it was important that we pass this legislation today to clearly send a very strong message to school districts across the country that they have to meet their responsibility to keep our children safe during school hours. I urge my colleagues to support this legislation.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise today in strong support of the H.R. 6547, "Protecting Students from Sexual and Violent Predators Act." The Protecting Students from Sexual and Violent Predators Act amends the Elementary and Secondary Education Act of 1965 to require each state receiving funds under that Act to have in effect policies and procedures that: (1) require criminal background checks for school employees, including searches of state criminal registries or repositories, state-based child abuse and neglect registries and databases, the National Crime Information Center of the Department of Justice, the National Sex Offender Registry, and the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation (FBI); and (2) prohibit the employment of school employees who refuse to consent to a criminal background check, make false statements in connection with one, or have been convicted of one of a list of felonies.

H.R. 6547 requires local educational agencies (LEAs) or state educational agencies (SEAs) to report to local law enforcement any applicants for school employment who are discovered to be sexual predators. This legislation requires periodic repetitions of such criminal background checks. It further requires such states to provide for a timely process under which school employees may: (1) appeal the results of a criminal background check to challenge the accuracy or completeness of the information produced; and (2) seek appropriate relief for any final employment decision based on materially inaccurate or incomplete information produced. H.R. 6547 requires this appeals process, however, to deny the individual employment as a school employee during the process.

What makes our Nation great is the belief that every child has the right to a quality elementary and secondary education. Children truly represent the future of our country. They are our living national treasures. Yet they are one of our populations that are least capable of protecting themselves. So, it is our duty to do all we can to provide them with a safe learning environment, free from the menacing threat of sexual and violent predators. This legislation takes a positive step toward making safer school environments a reality by requiring background checks for school employees and prohibiting employment of persons who refuse to submit to a criminal background check.

I have always been a strong advocate of protecting our children from sexual predators. I introduced similar legislation in H.R. 288, the "Save Our Children: Stop the Predators Against Children DNA Act of 2009." I believe H.R. 6547, which we are privileged to consider now will provide an important measure of protection for our children from the horrors of sexual and violent predators that we hear about all too frequently in the news. Parents should be able to send their children to school in the morning and know that they will be safe. Children should be able to enjoy their time of innocence and the wonderment of learning without worrying that undue harm to come to them or their classmates. So, I ask my colleagues to stand with me today and vote in favor of the H.R. 6547, "Protecting Students from Sexual and Violent Predators Act."

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 6547.

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. GEORGE MILLER of California. Madam 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.

SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY ACT OF 2010

Mr. LYNCH. Madam Speaker, I move to suspend the rules and pass the bill (S. 118) to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Section 202 Supportive Housing for the Elderly Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—NEW CONSTRUCTION REFORMS

Sec. 101. Selection criteria.
Sec. 102. Development cost limitations.
Sec. 103. Owner deposits.
Sec. 104. Definition of private nonprofit organization.
Sec. 105. Nonmetropolitan allocation.

TITLE II—REFINANCING

Sec. 201. Approval of prepayment of debt.
Sec. 202. Use of unexpended amounts.
Sec. 203. Use of project residual receipts.
Sec. 204. Additional provisions.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

Sec. 301. Amendments to the grants for conversion of elderly housing to assisted living facilities.
Sec. 302. Monthly assistance payment under rental assistance.

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

Sec. 401. Budgetary effects.

TITLE I—NEW CONSTRUCTION REFORMS

SEC. 101. SELECTION CRITERIA.

Section 202(f)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(1)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

''(F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);''.

SEC. 102. DEVELOPMENT COST LIMITATIONS.

Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''reasonable'' before ''development cost limitations''.

SEC. 103. OWNER DEPOSITS.

Section 202(j)(3)(A) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the period at the end the following: ''Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.''.

SEC. 104. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.

Section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as follows:

''(4) The term 'private nonprofit organization' means—

''(A) any incorporated private institution or foundation—

''(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(ii) which has a governing board—

''(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

''(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

''(iii) which is approved by the Secretary as to financial responsibility; and

''(B) a for-profit limited partnership the sole general partner of which is—

''(i) an organization meeting the requirements under subparagraph (A);

''(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

''(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A).''.

SEC. 105. NONMETROPOLITAN ALLOCATION.

Paragraph (3) of section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting after the period at the end the following: ''In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.''.

TITLE II—REFINANCING

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting '', for which the Secretary's consent to prepayment is required,'' after ''Affordable Housing Act)'';

(2) in paragraph (1)—

(A) by inserting ''at least 20 years following'' before ''the maturity date'';

(B) by inserting ''project-based'' before ''rental assistance payments contract'';

(C) by inserting ''project-based'' before ''rental housing assistance programs''; and

(D) by inserting '', or any successor project-based rental assistance program,'' after ''1701s))'';

(3) by amending paragraph (2) to read as follows:

''(2) the prepayment may involve refinancing of the loan if such refinancing results in—

''(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

''(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

''(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

''(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

''(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or

''(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and''; and

(4) by adding at the end the following:

''(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.''.

SEC. 202. USE OF UNEXPENDED AMOUNTS.

Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking ''USE OF UNEXPENDED AMOUNTS.—'' and inserting ''USE OF PROCEEDS.—'';

(2) by amending the matter preceding paragraph (1) to read as follows: ''Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—'';

(3) by amending paragraph (1) to read as follows:

''(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the non-profit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;'';

(4) in paragraph (2), by inserting before the semicolon the following; '', including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable'';

(5) in paragraph (3), by striking ''or'' at the end;

(6) in paragraph (4), by striking ''according to a pro rata allocation of shared savings resulting from the refinancing.'' and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

''(5) rehabilitation of the project to ensure long-term viability; and

''(6) the payment to the project owner, sponsor, or third party developer of a developer's fee in an amount not to exceed or duplicate—

''(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

''(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost. For purposes of paragraph (6)(B), the term 'acceptable development cost' shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.''.

SEC. 203. USE OF PROJECT RESIDUAL RECEIPTS.

Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking ''not more than 15 percent of''; and

(2) by inserting before the period at the end the following: ''or other purposes approved by the Secretary''.

SEC. 204. ADDITIONAL PROVISIONS.

Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding at the end the following new subsections:

''(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

''(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

''(A) for a term of at least 20 years, subject to annual appropriations; and

''(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 or under the rules of such assistance as may be made available for the project.

''(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

''(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

''(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

''(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

''(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

''(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary—

''(1) has determined that the owner of the project has notified the tenants of the owner's request for approval of a prepayment; and

''(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner's request for approval of a prepayment, including on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

''(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term 'private nonprofit organization' has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).''.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

SEC. 301. AMENDMENTS TO THE GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

(a) TECHNICAL AMENDMENT.—The section heading for section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) is amended by inserting ''and other purposes'' after ''assisted living facilities''.

(b) EXTENSION OF GRANT AUTHORITY.—Section 202b(a)(2) of the Housing Act of 1959 (12 U.S.C. 1701q–2(a)(2)) is amended—

(1) by striking ''(2) CONVERSION.—Activities'' and inserting the following:

''(2) CONVERSION.—

''(A) ASSISTED LIVING FACILITIES.—Activities''; and

(2) by adding at the end the following:

''(B) SERVICE-ENRICHED HOUSING.—Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.''.

(c) AMENDMENT TO APPLICATION PROCESS.—Section 202b(c)(1) of the Housing Act of 1959 (12 U.S.C. 1701q–2(c)(1)) is amended by inserting ''for either an assisted living facility or service-enriched housing'' after ''activities''.

(d) REQUIREMENTS FOR SERVICES.—Section 202b(d) of the Housing Act of 1959 (12 U.S.C. 1701q–2(d)) is amended to read as follows:

''(d) REQUIREMENTS FOR SERVICES.—

''(1) SUFFICIENT EVIDENCE OF FIRM FUNDING COMMITMENTS.—The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

''(2) REQUIRED EVIDENCE.—The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

''(A) the services that will be available at the property to each resident, including—

''(i) the right to accept, decline, or choose such services and to have the choice of provider;

''(ii) the services made available by or contracted through the grantee;

''(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

''(B) the availability, identity, contact information, and role of the service coordinator; and

''(C) such other information as the Secretary determines to be appropriate to ensure that residents are adequately informed of the services options available to promote resident independence and quality of life.''.

(e) AMENDMENTS TO SELECTION CRITERIA.—Section 202b(e) of the Housing Act of 1959 (12 U.S.C. 1701q–2(e)) is amended—

(1) in paragraph (2)—

(A) by inserting ''or service-enriched housing'' after ''facilities''; and

(B) by inserting ''service-enriched housing'' after ''facility'';

(2) in paragraph (5), by inserting ''or service-enriched housing'' after ''facility''; and

(3) in paragraph (6), by inserting ''or service-enriched housing'' after ''facility''.

(f) AMENDMENTS TO SECTION 8 PROJECT-BASED ASSISTANCE.—Section 202b(f) of the Housing Act of 1959 (12 U.S.C. 1701q–2(f)) is amended—

(1) in paragraph (1), by inserting ''or service-enriched housing'' after ''facilities'' each time that term appears; and

(2) in paragraph (2), by inserting ''or service-enriched housing'' after ''facility''.

(g) AMENDMENTS TO DEFINITIONS.—Section 202b(g) of the Housing Act of 1959 (12 U.S.C. 1701q–2(g)) is amended to read as follows:

''(g) DEFINITIONS.—For purposes of this section—

''(1) the term 'assisted living facility' has the meaning given such term in section 232(b) of the National Housing Act (1715w(b));

''(2) the term 'service-enriched housing' means housing that—

''(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

''(B) includes the position of service coordinator, which may be funded as an operating expense of the property; ;

''(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

''(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

''(3) the definitions in section 1701(q)(k) of this title shall apply.''.

SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL ASSISTANCE.

Clause (iii) of section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is amended by inserting before the period at the end the following: '', except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.''.

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

SEC. 401. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Massachusetts (Mr. LYNCH) and the gentlewoman from West Virginia (Mrs. CAPITO) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add extraneous material.

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

There was no objection.

Mr. LYNCH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of the Section 202 Supportive Housing for the Elderly Act of 2010. I would like to start by thanking Chairman FRANK and Senator HERB KOHL for their efforts on this bill and their dedication to America's seniors. This legislation simply brings HUD's section 202 program, part of our Nation's safety net for the low-income elderly for nearly 50 years, into the 21st century.

Supportive housing of the type funded by section 202 is an effective and cost-efficient program for low-income elderly. Section 202 grants combine high-quality, affordable housing with service coordinators who connect tenants with health, income support, and other community-based services. This produces positive outcomes for the health and quality of life of elderly tenants.

Section 202's housing plus services model extends how long seniors can live independently. This turns out to be cost effective as well, given the alternatives of nursing home care coupled with frequent hospitalizations. However, it is clear that HUD needs to streamline administration of this program to reflect a new financing reality.

The section 202 program was originally designed to be a one-stop shop for nonprofits to cover their entire project costs—that is capital, operating, and supportive services. Due to funding constraints, HUD's 202 grants no longer do so, especially in high-cost areas like my home State of Massachusetts. This requires nonprofit sponsors to access other sources of financing such as low-income housing tax credits.

The bill before us today addresses these concerns while taking into account HUD's legitimate interest in maintaining oversight of its substantial investment in section 202 projects. Senate 118 requires HUD to take advantage of State and local housing finance agencies' better positioning to process mixed finance applications. It also enables nonprofit sponsors to share more fully in the proceeds of refinancing opportunities that are now available in the private sector that some older 202 projects have, so those sponsors can make needed improvements to existing projects and develop desperately needed additional senior housing.

For all of these reasons, I urge my colleagues to vote ''yes'' on S. 118.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I yield myself such time as I may consume.

I rise in support of S. 118, the Section 202 Supportive Housing for the Elderly Act of 2009. As my colleague has said, the bill reforms the section 202 elderly housing program making it more efficient and more effective and better able to meet the housing needs of our elderly. S. 118 is similar to H.R. 2930 that passed the House in the 110th Congress by voice vote.

Affordable housing with supportive services is a key component for seniors who want to stay in their own home and age in place. The section 202 Housing for the Elderly program is the primary HUD program that provides housing exclusively for low-income elderly households. The section 202 program has been a very important tool in addressing these housing needs by providing capital advance grants to nonprofit housing sponsors to build new elderly housing facilities and project rental assistance contracts to subsidize very low-income elderly citizens of these facilities.

Many nonprofit sponsors are faith-based organizations with an exclusive mission to serve the elderly. As a condition of receiving a capital advance, which does not have to be repaid, a nonprofit sponsor must make housing available for a period no less than 40 years. As a result of these efforts, the section 202 program currently supplies 320,000 units of housing for our very low-income elderly citizens.

I am very pleased to see that the language that I worked on in the 110th Congress remains in the bill. My provision would help resolve a problem that nonmetro States, like my home State of West Virginia, have experienced when attempting to qualify for funds through the section 202 program. It is important to recognize, of course, that the need for housing for the very low-income elderly extends to nonmetro areas. The very low-income elderly of rural West Virginia deserve the same resources that are available to the elderly living in larger cities.

Participants and developers of the section 202 program maintain that the current regulation and HUD administration of the program can be time-consuming and bureaucratic. S. 118 will improve the section 202 elderly housing program by streamlining and simplifying the development and preservation of HUD's section 202 properties, and by increasing participation by not-for-profit developers, private lenders, investors, and State and local funding agencies.

Madam Speaker, the need for affordable rental housing in America has an effect on renters of all ages, especially our seniors, and this bill will help ease some of the affordability problems for our senior population. I urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. LYNCH. Madam Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Madam Speaker, I want to thank my good friend from Massachusetts for his leadership and his co-manager on the floor for her insightfulness on this legislation and, as well, to Senator KOHL.

I rise in support of S. 118 because so many of us have these very questions being raised in our district, particularly with populations of seniors increasing. My district happens to have one of the highest percentages of senior constituents, and all of them seem to be looking for housing.

□ 1120

I support the underlying initiative, section 202 housing. I have a number of those units in my congressional district. But one of the points that I wanted to highlight is the fact that many of these facilities are falling in disrepair. Even though there are some new facilities—and by my rising to the floor of the House, I would like to encourage my constituents and all those who are listening about how important it is to institute section 202 proposals or projects. They are enormously important, and I think it is important that the provision that encourages the utilization of State and local housing financing agencies is an asset.

One of the most important parts of this legislation is for the nonprofits who engage in 202 to be engaged or share more in the refinancing of these projects. The Heights House in my district, for example, is one that has a very vibrant population of residents who are there, but I know that all who are involved would like to see that property improved and those resources used to ensure that upkeep is continued. In many instances, the owners or nonprofits will say that the return on the property is not enough to keep it at its highest level.

Although we appreciate these properties and we appreciate the idea of these seniors having a place to live, I think that this particular legislation will reinforce section 202 and add to the 320,000 units already there. Our senior population is growing. Many of them have resources, but many do not. And I think the 202 project under HUD is an important concept to provide more housing for our seniors. They deserve, after working and contributing to this great country, the opportunity to live a very good quality of life.

With that, I ask my colleagues to support this legislation, and I thank the gentleman for yielding.

Mrs. CAPITO. Madam Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. BIGGERT), a housing advocate and the upcoming chair of the new subcommittee.

Mrs. BIGGERT. I thank the gentlelady for yielding.

Madam Speaker, I rise today as the Republican cosponsor of the House

version of this legislation, H.R. 2930, which was first introduced during the 110th Congress, and I urge my colleagues to support today's bill, Senate 118, the Section 202 Supportive Housing for the Elderly Act. I would also like to thank Chairman FRANK and Ranking Members BACHUS and CAPITO for their work on this legislation. I would also like to thank our Senate counterpart, Senator KOHL of Wisconsin.

Madam Speaker, the section 202 program is the only Federal housing program that directs housing assistance to low-income seniors. And it has already been stressed, but it can't be stressed enough, that it has not been reformed in over a decade and a half. The reforms offered in today's bill will help increase the number of units available to our seniors, a population that is increasing greatly in numbers as the baby boomer generation retires.

In short, the bill will allow a variety of funding sources to be pooled together with section 202 funding to fund housing for seniors. By increasing program efficiencies, the bill will make it easier for section 202 projects to be refinanced and rehabilitated. It will also make it easier for owners to convert properties into those that provide both housing and services for the low-income seniors.

Again, I would like to thank my colleagues for their work on this legislation. And I would also like especially to thank my constituent Mike Frigo, the vice president of Mayslake, which is located in my district, who testified in support of section 202 reform legislation in September 2007. In December 2007, by voice vote, the House passed H.R. 2930, which is similar to the bill under consideration today. So I would urge my colleagues to support the bill.

Mr. LYNCH. Madam Speaker, I have no further requests for time on this side on this issue, but I do want to take an opportunity to thank Mrs. BIGGERT, the gentlelady from Illinois, and Mrs. CAPITO, the gentlelady from West Virginia, for their great work on this bill.

I have—and I'm sure we all have—a number of section 202 developments in our districts. I have plenty, and they serve our low-income seniors extremely well and it really is a program that does improve the quality of life for a lot of our seniors. So I thank the gentleladies for their cooperation.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I have no further requests for time. I want to thank the gentleman from Massachusetts for his good hard work, and I encourage my colleagues to support the bill.

I yield back the balance of my time.

Mr. LYNCH. Madam Speaker, 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. LYNCH) that the House suspend the rules and pass the bill, S. 118.

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.

FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT ACT OF 2010

Mr. MURPHY of Connecticut. Madam Speaker, I move to suspend the rules and pass the bill (S. 1481) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Frank Melville Supportive Housing Investment Act of 2010''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

''(4) TENANT-BASED RENTAL ASSISTANCE.—

''(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

''(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a 'public housing agency' authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

''(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.''.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as ''chronically homeless'' is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting ''(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—'' after ''PROJECT RENTAL ASSISTANCE.—'';

(B) in the first sentence, by inserting after ''shall'' the following: ''comply with subsection (e)(2) and shall'';

(C) by striking ''annual contract amount'' each place such term appears and inserting ''amount provided under the contract for each year covered by the contract''; and

(D) by adding at the end the following new subparagraph:

''(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

''(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

''(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.''.

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: '', except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months''; and

(B) by striking ''extend any expiring contract'' and insert ''upon expiration of a contract (or any renewed contract), renew such contract''.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: ''PROGRAM REQUIREMENTS'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) USE RESTRICTIONS.—

''(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

''(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the

owner to convert the project to such use.''; and

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

''(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

''(4) MULTIFAMILY PROJECTS.—

''(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.''; and

(2) in subsection (l), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking ''SELECTION CRITERIA.—'' and inserting ''SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

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

''(2) DELEGATED PROCESSING.—

''(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

''(i) is in geographic proximity to the property;

''(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

''(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

''(iv) agrees to issue a firm commitment within 12 months of delegation.

''(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

''(C) The Secretary shall—

''(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

''(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

''(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

''(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.''.

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

''(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;''.

(e) TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

''(i) ADMISSION AND OCCUPANCY.—

''(1) TENANT SELECTION.—

''(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

''(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

''(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

''(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

''(2) TENANT PROTECTIONS.—

''(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

''(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

''(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

''(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

''(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.''.

(f) DEVELOPMENT COST LIMITATIONS.—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting ''GROUP HOMES'';

(B) in the first sentence, by striking ''various types and sizes'' and inserting ''group homes'';

(C) by striking subparagraph (E); and

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

(2) in paragraph (3), by inserting ''established pursuant to paragraph (1)'' after ''cost limitation''; and

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

''(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

''(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

''(B) WAIVERS.—The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

''(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

''(ii) to provide for—

''(I) the cost of special design features to make the housing accessible to persons with disabilities;

''(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

''(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.''.

(g) CONGRESSIONAL NOTIFICATION OF WAIVER.—Section 811(k) is amended—

(1) in paragraph (1), by adding the following after the second sentence: ''Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.''; and

(2) in paragraph (4)—

(A) by striking ''prescribe, subject to the limitation under subsection (h)(6) of this section)'' and inserting ''prescribe)''; and

(B) by adding the following after the first sentence: ''Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial

Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.''.

(h) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—Paragraph (1) of section 811(l) is amended to read as follows:

''(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).''.

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking ''is authorized—'' and inserting ''is authorized to take the following actions:'';

(2) in paragraph (1)—

(A) by striking ''(1) to provide tenant-based'' and inserting ''(1) TENANT-BASED ASSISTANCE.—To provide tenant-based''; and

(B) by striking ''; and'' and inserting a period;

(3) in paragraph (2), by striking ''(2) to provide assistance'' and inserting ''(2) CAPITAL ADVANCES.—To provide assistance''; and

(4) by adding at the end the following:

''(3) PROJECT RENTAL ASSISTANCE.—

''(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

''(B) CONTRACT TERMS.—

''(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

''(I) in accordance with subsection (d)(2); and

''(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

''(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

''(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

''(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

''(i) the development costs are paid with resources from other public or private sources; and

''(ii) a commitment has been made—

''(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

''(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

''(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

''(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

''(i) to identify the target populations to be served by the project;

''(ii) to set forth methods for outreach and referral; and

''(iii) to make available appropriate services for tenants of the project.

''(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

''(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

''(i) describing the assistance provided under this paragraph;

''(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

''(iii) making recommendations regarding future models for assistance under this section.''.

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2)—

(i) by striking ''provides'' and inserting ''makes available''; and

(ii) by striking the period at the end and inserting ''; and''; and

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

''(3) promotes and facilitates community integration for people with significant and long-term disabilities.'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''special'' and inserting ''housing and community-based services''; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;''; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking ''provided under'' and all that follows through ''shall bear'' and inserting ''provided pursuant to subsection (b)(1) shall bear'';

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking ''receive'' and inserting ''be offered'';

(ii) by striking subparagraph (C) and inserting the following:

''(C) evidence of the applicant's experience in—

''(i) providing such supportive services; or

''(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;'';

(iii) in subparagraph (D), by striking ''such persons'' and all that follows through ''provision of such services'' and inserting ''tenants''; and

(iv) in subparagraph (E), by inserting ''other Federal, and'' before ''State''; and

(B) in paragraph (4), by striking ''special'' and inserting ''housing and community-based services'';

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking ''the necessary supportive services will be provided'' and inserting ''appropriate supportive services will be made available''; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

''(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;'';

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (k)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: '', which provides a separate bedroom for each tenant of the residence'';

(B) in paragraph (2), by striking the first sentence, and inserting the following: ''The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.'';

(C) by striking paragraph (3) and inserting the following new paragraph:

''(3) The term 'supportive housing for persons with disabilities' means dwelling units that—

''(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

''(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.'';

(D) in paragraph (5), by striking ''a project for''; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106–569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking ''wholly owned and''; and

(8) in subsection (l)—

(A) in paragraph (2), by striking ''subsection (c)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (3), by striking ''subsection (c)(2)'' and inserting ''subsection (d)(2)''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section $300,000,000 for each of fiscal years 2011 through 2015.''.

SEC. 7. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. MURPHY) and the gentlewoman from West Virginia (Mrs. CAPITO) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut.

GENERAL LEAVE

Mr. MURPHY of Connecticut. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

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

There was no objection.

Mr. MURPHY of Connecticut. I yield myself such time as I may consume.

Madam Speaker, I am proud to stand here today with my colleagues in support of S. 1481, the Frank Melville Supportive Housing Investment Act of 2009. This is a reauthorization and improvement upon the existing section 811 supportive housing program. Passing this bill today would send the legislation to the President's desk. I think this is the third time we've had this bill before the House over the last 4 years. It would pave the way to provide thousands more affordable housing units each year across this country to low-income persons with physical and mental disabilities. Importantly, the bill before us today costs the same amount as the existing 811 program. It just makes some very important improvements to efficiently expand the use of these important dollars.

That is why I want to first just thank all the people who have brought this bill before us today, Senators MENENDEZ and JOHANNS in the Senate as well as the ranking member of the full committee in the Senate, Senator DODD; here in the House, the chairman of the full committee, Representative FRANK and Representatives CAPITO and BIGGERT for their tireless advocacy on the issue of supportive housing, as well as really hundreds of staff both on the inside of this building and those advocates who have worked on this issue for a number of years.

And lastly to the Melville family, this bill is titled the Frank Melville Supportive Housing Investment Act. Frank Melville, who unfortunately passed away a few years ago, and his surviving wife, Allen, created something called the Melville Charitable Trust; and that trust today is one of the primary funders of supportive housing advocacy around the Northeast and around the Nation. And I think this legislation, should it find its way into passage, will be a fitting testament to Frank Melville's legacy.

Madam Speaker, the 811 program is the primary program for the development of supportive housing around the country. The Department of Housing and Urban Development estimates that around this Nation, there are about 1.3 million individuals, nonelderly disabled, people with physical disabilities or sometimes very severe mental illness, who are living in substandard housing. Supportive housing is a cost-effective means to provide those individuals with an ability to thrive independently. They are housing units, sometimes built together, sometimes done on a scattered-site basis, that are partnered with a modicum of support services, sometimes transportation help, sometimes medication adherence, that allows them to live independently.

It's the right thing to do for them, and it's the right thing to do for the government. It saves us billions of dollars. Because often, especially with respect to the individuals who have severe mental illness, the alternative is for those people to live in institutional settings, whether it be in hospitals or in jails. For those with physical disabilities, it is often a very, very difficult life to live in nonsupportive housing units.

□ 1130

The problem is we are not building enough of these units. Over the last few years we've built less than 1,000 across the country with 811 dollars. And it's sometimes taking up to 6 years from the point of application to the point of completion when you're dealing with an 811 project.

This bill, by reordering the way in which we run the program, would triple the number of housing units that we can build through the 811 program across country. It does this by providing better accountability and cost efficiency to the program, by transferring 811 vouchers to the larger section 8 program. And this frees up funds to support efforts to leverage 811 capital dollars with low-income tax credits, private dollars, and State partnerships. That's what this is really all about, trying to take our Federal dollars and leverage them with other sources of funding, whether it be through State and municipal funds or whether it be through private dollars, which I think is really the future of supportive housing development.

It also makes a number of other important efficiencies by allowing States and State housing agencies to do much of the bureaucratic paperwork that sometimes bogs down these applications.

Years ago, Madam Speaker, when this country and States across the Nation made the decision to close down our institutions that housed individuals with mental and physical disabilities, we made a promise to them. We told them that we'd find them new housing out in the communities, better opportunities for those individuals to live on their own. We haven't lived up to that promise over the years.

And in Connecticut, those of us who have worked on this issue for years, we often wear a badge when we're working on this issue in the State Capitol that says, Keep the Promise. This legislation, I believe, thanks to the great work of my Republican colleagues and Senators who worked so hard on it, is a step towards doing just that.

Again, I'd like to thank all of the people who have made this prospective final passage possible.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I would like to thank my colleague from Connecticut for his dedication to this very important piece of legislation. And I would particularly like to thank Ms. BIGGERT from Illinois for her passion and her advocacy on behalf of the disabled Americans and their housing needs.

I rise in support of S. 1481, the Frank Melville Supportive Housing Investment Act of 2010.

There are nearly 4 million non-elderly disabled adults in the United States that are in need of housing assistance. The section 811 program is the only Federal program that allows persons with disabilities to live independently in the community by increasing the supply of affordable rental housing with the availability of supportive services.

S. 1481 closely resembles H.R. 1675, which passed the House by over 375 votes last year. The bill before us

today restructures the section 811 program in a way that provides for a continued creation of supportive housing and provides rental assistance that would make housing affordable for very low-income people with disabilities.

This bill will improve the section 811 disabled housing program by streamlining and simplifying development of HUD section 811 properties, and makes changes to the program to encourage integration and mixed-use developments such as low-income housing tax credits and HOME program funds.

I would additionally like to thank the very dedicated and hearty group of advocates from my State of West Virginia who traveled here last year to talk about this extremely important issue and the difficulties that they find every day, not only securing housing, but finding more housing for their associates who may suffer disabilities and are unable to find safe, affordable housing. And so I want to thank them for their passion and also for their strength that they exhibit every day in dealing with their disabilities.

I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. MURPHY of Connecticut. Madam Speaker, I yield as much time as he may consume to the chairman of the full committee and a primary proponent of this legislation and the legislation that previously passed respective to the 202 program, Representative BARNEY FRANK.

Mr. FRANK of Massachusetts. Madam Speaker, I support this legislation substantively. I'm also glad we're bringing it up because it helps dispel a couple of unduly negative views about us. We've just seen a great example of bipartisan cooperation. Yes, things have gotten very partisan. Some things should be partisan. More have become that way than should be.

But the public has an excessive view of the extent to which partisanship dominates, because when we have cooperation between the parties and agreement it's not news. And while we have some differences, the gentlewoman from West Virginia as the ranking member of the Housing Subcommittee and the gentlewoman from California (Ms. WATERS) as the chair did a lot of constructive work together, brought forward a number of pieces of legislation. Not all of them survived the last minute rush. I am hopeful under the leadership of the gentlewoman from Illinois those areas where we had some agreement, there were some that remain, that we will be able to move them. So it does show that people believe that there is more partisanship than there is, or that there are no examples of cooperation between the parties, as there are in this case.

There is a view that politics is a hard and nasty business and that people are vindictive, and this is proof that that's not true.

Now, the gentleman from Connecticut abandoned our committee, left for greener committee pastures. But that did not prevent us from enthusiastically helping him to pass this bill, and he deserves a great deal of credit for it. It is an idea, I believe, that came to him from constituents, and that's another good thing to know; that there were people in his district who were interested in this. And he brought it forward and worked very hard and made the necessary adjustments, as you always do in the process.

So this speaks very well of the gentleman from Connecticut and of the process, that people in the country who have some good ideas can bring them to us and they can be shaped, and this is done.

Finally, I am very pleased that this will lead to, I hope, more construction of rental units. A common problem that we've had for many years in our housing area was to overstress home ownership for people who needed government assistance, and under-performed with regard to building rental units. No one thing solved it all, but this is a step forward towards the construction of rental units in a way that will increase the stock of housing.

And we ought to remember when we talk about providing homes for people who need assistance, ownership and having a home are not the same word. Home ownership is a part of home, in general. Rental housing is also an important part.

I thank the gentleman from Connecticut and the gentlewoman from West Virginia and others for letting us take that step forward together.

Mrs. CAPITO. Madam Speaker, I yield such time as she may consume to a wonderful advocate for supportive housing and housing in general, the gentlewoman from Illinois, JUDY BIGGERT.

Ms. BIGGERT. Madam Speaker, today I rise as a Republican cosponsor of the House version of this legislation, and I urge my colleagues to support the bill.

I would like to thank my colleague, Congressman MURPHY of Connecticut, for all his hard work, and Ranking Member CAPITO of West Virginia for all that she has done on this bill.

Also our Senate counterparts, Senator MENENDEZ of New Jersey and Senator MIKE JOHANNS of Nebraska, for their hard work on this legislation.

Section 811 is the only Federal housing program that serves non-elderly, low-income people with disabilities. It is the only Federal program that funds housing and vouchers for people with disabilities who seek to live as independent members of the community.

Unfortunately, the program hasn't been reformed for over 15 years and, due to inefficiencies, has not served as many people who are disabled as it could. That's why, for the past 4 years, Congressman MURPHY and I have worked to reform the section 811 program. The House passed our bill, H.R. 5772, by voice vote in September 2008, and in July 2009, the House passed H.R. 1675 with overwhelming bipartisan support by a recorded vote of 376–51.

The bill under consideration today closely mirrors both House-passed bills. S. 1481 is critical to the goal of increasing the number of affordable units for people with disabilities. By better aligning this section 811 program with other Federal, State, and local funding resources, it allows nonprofit sponsors to more easily leverage additional financing, thereby maximizing Federal dollars.

□ 1140

It streamlines the application process and permits nonprofit and for-profit entities to partner on Section 811 projects. The bill also limits appropriations to the Federal fiscal year 2010 level and does not create any new Federal programs.

I would like to once again thank my colleague from Connecticut, Congressman MURPHY, and thank Chairman FRANK and Ranking Member BACHUS, Chairwoman WATERS and Ranking Member CAPITO, as well as their staffs, for helping us with this legislation.

Of course, I cannot forget to thank one of my constituents from Tinley Park, Illinois, Tony Paulauski, the executive director of Arc of Illinois, who testified in 2008 before our committee about the needs for these reforms. On a similar note, I would also like to thank the wonderful people in Illinois that work for Trinity Services and Cornerstone Services, as well as all those volunteers, parents, and other members of the community who have reached out to express their support of this legislation.

Madam Speaker, this is a commonsense bill that modernizes an important Federal housing program that hasn't been updated, and I would urge my colleagues to support it.

Mrs. CAPITO. Madam Speaker, I would urge my colleagues to vote in support of this very important bill.

I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of Connecticut. Madam Speaker, I would like to thank, again, Representative FRANK for his generosities, despite my leaving the committee. And again, to Representative BIGGERT in particular, for her advocacy on this issue over the years.

For people that are born with physical and mental disabilities, what I think we strive to do as a society is give them a chance at independent life, give them a chance to succeed just like everyone else. And there is nothing more fundamental to that success than a roof over your head, than a place to live and a place that has some appropriate supports, recognizing the challenges that you face. This bill, where we can potentially triple the number of supportive housing units that we build across the country without spending an additional dime, is both, I think, a compassionate response to those people and a responsible way to run this program.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. MURPHY) that the House suspend the rules and pass the bill, S. 1481.

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.

ANTI-BORDER CORRUPTION ACT OF 2010

Ms. JACKSON LEE of Texas. Madam Speaker, I move to suspend the rules and pass the bill (S. 3243) to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

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 ''Anti-Border Corruption Act of 2010''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Office of the Inspector General of the Department of Homeland Security, since 2003, 129 U.S. Customs and Border Protection officials have been arrested on corruption charges and, during 2009, 576 investigations were opened on allegations of improper conduct by U.S. Customs and Border Protection officials.

(2) To foster integrity in the workplace, established policy of U.S. Customs and Border Protection calls for—

(A) all job applicants for law enforcement positions at U.S. Customs and Border Protection to receive a polygraph examination and a background investigation before being offered employment; and

(B) relevant employees to receive a periodic background reinvestigation every 5 years.

(3) According to the Office of Internal Affairs of U.S. Customs and Border Protection—

(A) in 2009, less than 15 percent of applicants for jobs with U.S. Customs and Border Protection received polygraph examinations;

(B) as of March 2010, U.S. Customs and Border Protection had a backlog of approximately 10,000 periodic background reinvestigations of existing employees; and

(C) without additional resources, by the end of fiscal year 2010, the backlog of periodic background reinvestigations will increase to approximately 19,000.

SEC. 3. REQUIREMENTS WITH RESPECT TO ADMINISTERING POLYGRAPH EXAMINATIONS TO LAW ENFORCEMENT PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.

The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after the date of the enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection receive polygraph examinations before being hired for such a position; and

(2) by not later than 180 days after the date of the enactment of this Act, U.S. Customs and Border Protection initiates all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before the date of the enactment of this Act.

SEC. 4. PROGRESS REPORT.

Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter through the date that is 2 years after such date of enactment, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress made by U.S. Customs and Border Protection toward complying with section 3.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON LEE) and the gentlewoman from Michigan (Mrs. MILLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Texas.

GENERAL LEAVE

Ms. JACKSON LEE of Texas. Madam 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 the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise in support of S. 3243, the Anti-Border Corruption Act of 2010, and yield myself such time as I may consume.

Madam Speaker, we all have a stake in ensuring that the agency in charge of securing our border is strong and effective. Accordingly, I believe that corruption anywhere in the ranks of Customs and Border Protection, or CBP, must be dealt with swiftly and effectively. Now, having gone to our border, both northern and southern border, I am well aware that there is a lot of hard work, sacrifice, and professionalism that goes on among our CBP personnel. In fact, I have engaged with them over the years.

S. 3243, however, will foster greater integrity throughout the CBP by requiring polygraph tests for all its law enforcement applicants and directing CBP leadership to conduct periodic reinvestigations on current personnel to root out any corruption—very important in light of the extreme conditions, particularly on the southern border, and the fight that we have against drug cartels and violence.

The men and women of Customs and Border Protection, CBP, serve on the front line in extreme heat, terrible cold, and other difficult circumstances to protect the Nation against homeland security and criminal threats, and we are enormously grateful to them.

I am proud of the strides that Congress has made over the years to bolster the efforts of these fine men and women by, among other things, doubling the size of the Border Patrol from about 10,000 agents in FY 2002 to more than 20,000 in FY 2009. I am very pleased that having served on that committee since its origin, and having served under Chairman THOMPSON, that was one of our number one priorities. In fact, legislation that I introduced became, ultimately, part of a Senate bill that helped increase the number of Border Patrol agents at the border, the southern border in particular.

Traditional smuggling routes and networks have been disrupted because of our Federal efforts to secure the border. But in response, smugglers and other criminal organizations are actively seeking out other ways to conduct their illegal activity. They have, in some cases, resorted to infiltrating and weakening CBP from within its ranks.

While the majority of CBP employees are not corrupt and are putting their lives on the line every day to keep America secure, there are some who are undermining their efforts. Let me remind my colleagues: The majority of CBP employees are not corrupt, and we thank them for their sacrifice. However, enactment of this bill will strengthen personnel integrity, result in greater hiring efficiency, and protect those who are doing their job every single day.

According to CBP, approximately 15 percent of applicants received a polygraph examination last year. Of those, about 60 percent were found unsuitable for service. CBP has also found that less than 1 percent of applicants cleared by polygraph testing failed the required background investigation. It shows that this process will work. In contrast, roughly 22 percent of applicants who do not undergo this testing fail their background investigations.

Maintaining workforce integrity is a continuous process that does not end with preemployment screening. With the aggressive growth in CBP, the agency has struggled to keep up with its periodic reinvestigations of certain personnel. S. 3243 would require CBP to initiate reinvestigation within 6 months of enactment and report to Congress on its progress, all toward the idea of ensuring the integrity of law enforcement at a very crucial time in America's history.

I urge my colleagues to join me in supporting the passage of S. 3243, because this legislation will help bolster CBP's ability to ensure integrity throughout the ranks of this critical Homeland Security agency. And, frankly, I believe the men and women who are doing their job every day will welcome this kind of process in order to be able to stand alongside of those men and women just like them.

I urge support.

I reserve the balance of my time.

Mrs. MILLER of Michigan. I yield myself as much time as I may consume.

Madam Speaker, I rise today to speak about S. 3243, which will require Customs and Border Protection, the CBP, to begin polygraph testing for all new applicants for law enforcement positions before being hired and to initiate periodic background reinvestigations for all of its law enforcement personnel.

First, I would like to sincerely commend the work that the Border Patrol agents and the CBP officers across the Nation do each and every single day. These brave men and women stand on the front lines. They endure hardships. They face dangerous and heavily armed drug cartels along the southern border. And agents like Brian Terry, who lost his life, actually, last week and is an agent from Michigan who, I believe, is being laid out at a funeral parlor in the city of Detroit as we speak, lay down their lives to protect our border and our Nation. And, of course, the challenges faced by CBP agents, as well, along the northern border are also being met.

The important work being done by our Border Patrol and CBP officers to control the legal flow of both people and goods while deterring smuggling has made them a target of these drug cartels and other criminal organizations who want to recruit them to help smuggle drugs and money across our borders.

Corruption amongst border agents, unfortunately, is not a new problem. But as our enforcement efforts along the border have grown, so have the number of corruption cases. Since 2003, 129 CBP officers have been arrested on corruption charges. Last year alone, there were 576 allegations of corruption.

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CBP's internal affairs office has stated that less than 15 percent of applicants receive a polygraph test, despite agency policy that requires that all applicants are supposed to take this test. CBP procedure also requires periodic background reinvestigations for employees to occur at least every 5 years. However, Madam Speaker, there is currently a backlog of over 10,000 cases, which could increase to 19,000 by the end of this fiscal year. This bill will make it mandatory for all CBP applicants to be prescreened with a polygraph examination and will require CBP to clear the backlog of reinvestigations within 6 months.

This bill will go a long, long way to preventing people like Margarita Crispin from becoming a CBP agent. Ms. Crispin, as an example, was hired by CBP in 2003, at which time she had already been recruited by the Juarez cartel. Almost immediately after completing her training, she began helping drug traffickers smuggle narcotics into the U.S.; and by the time she was arrested in 2007, she had allowed more than 2,200 pounds of marijuana to cross over our border.

Ms. Crispin was, unfortunately, not unique among CBP officers. In recent years, we have seen the Vilareal brothers, who helped smuggle an untold number of Mexicans and Brazilians across the border before quitting CBP and then fleeing into Mexico.

Perhaps most disturbing, however, as an example, was the case of Michael Gilliland, who was a highly respected 16-year veteran of CBP who was arrested on corruption charges in 2007. Mr. Gilliland became involved with a woman who belonged to a smuggling organization and before long began taking bribes to help smuggle people and narcotics into the United States.

Madam Speaker, this illustrates how important it is that CBP not only give polygraph exams to new applicants, but to also clear their backlog and reinvestigate their employees every few years.

Our efforts to secure the border since 9/11 have made it more difficult for criminal organizations to smuggle people and narcotics into our country, but this has only made them more desperate. It is important to ensure that the outstanding work being done by our Border Patrol agents isn't tarnished by a few corrupt individuals who could be screened out before they have the opportunity to do harm.

With the passage of this legislation, we can close this loophole and ensure that only the most trustworthy agents are employed by CBP.

Madam Speaker, I yield back the balance of my time.

Ms. JACKSON LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I want to join the gentlelady from Michigan to offer my deepest sympathy for the fallen Customs and Border Patrol agent who lost his life in the line of duty, in the line of battle, if you will, and to express this country's gratefulness again for his service.

So in tribute to those who we recognize every day put their lives on the front line, we want to ensure that we have the kind of force of men and women that will uphold the highest standards of integrity that even under pressure in this very hostile climate of drug cartels, human trafficking and smuggling and massiveness of criminal activity and intent to do harm to the United States, that we provide the atmosphere for these men and women to do their job.

Madam Speaker, as you have heard, the enactment of S. 3243 will force a greater integrity through CBP. Passage of S. 3243 by the House of Representatives today will allow this important measure to be presented to the President for his signature in recognition of the sacrifice of all of these men and women at our borders.

I encourage my colleagues to join me in supporting S. 3243 and, as we do this, look forward to comprehensively addressing this immigration concern in this Nation and really move this Nation forward in a nonpartisan and bipartisan manner.

Mr. THOMPSON of Mississippi. Madam Speaker, I rise in support of S. 3243, the Anti-Border Corruption Act.

The men and women of Customs and Border Protection (CBP) are the guardians of our Nation's borders.

They protect our ports of entry and areas in between against homeland security threats, including illicit trafficking and other criminal activity, while facilitating legitimate trade and travel.

The vast majority of CBP personnel are committed to the border security mission.

However, there have been instances in recent years of individuals seeking and securing employment with CBP for the express purpose of engaging in smuggling and other criminal activities.

For example, last December, Border Patrol Agent Raquel Esquivel was sentenced to 15 years in prison for informing smugglers on the location of patrols.

She reportedly joined the Border Patrol based on the recommendation of a high school friend and drug smuggler who convinced her it was a "good career move" for both of them.

More recently, just last week, a Customs Officer based at Atlanta's Hartsfield-Jackson Airport was arrested in one of the largest ecstasy pill seizures in the country.

The officer was charged with conspiring to launder drug money, bulk cash smuggling and attempting to bring weapons onto an aircraft. He allegedly used his badge to bypass security and avoid screening.

H.R. 3243 would strengthen CBP by enhancing the agency's personnel integrity policies.

Specifically, the bill would require CBP to:

(1) require all applicants for CBP law enforcement positions to undergo polygraph examinations; and

(2) commence background re-investigations of certain employees within six months of enactment.

CBP deploys more than 57,000 employees each day.

On a typical day, they process about one million passengers and pedestrians; execute more than two thousand apprehensions between ports and over one hundred criminal arrests at ports of entry.

Given this high-threat environment, it is not surprising that drug trafficking organizations have turned their attention to infiltrating and compromising CBP.

The dramatic increases in staffing have also contributed to personnel vulnerabilities.

The Border Patrol has seen its agents double from approximately 10,000 agents in FY 2002 to more than 20,000 in FY 2009.

This rate of growth has made it difficult for CBP to pace with periodic personnel re-investigations.

I urge passage of S. 3243 which takes some important steps to help prevent the hiring of those who seek to infiltrate CBP for terrorist or criminal purposes and ensure that re-investigations are conducted on a regular basis to weed out any potential corruption.

Ms. JACKSON LEE of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, S. 3243.

The question was taken.

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

Ms. JACKSON LEE of Texas. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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.

The point of no quorum is considered withdrawn.

NORTHERN BORDER COUNTERNARCOTICS STRATEGY ACT OF 2010

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, 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 ''Northern Border Counternarcotics Strategy Act of 2010''.

SEC. 2. NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

The Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109–469; 120 Stat. 3502) is amended by inserting after section 1110 the following:

''SEC. 1110A. REQUIREMENT FOR NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

''(a) DEFINITIONS.—In this section, the terms 'appropriate congressional committees', 'Director', and 'National Drug Control Program agency' have the meanings given those terms in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701).

''(b) STRATEGY.—Not later than 180 days after the date of enactment of this section, and every 2 years thereafter, the Director, in consultation with the head of each relevant National Drug Control Program agency and relevant officials of States, local governments, tribal governments, and the governments of other countries, shall develop a Northern Border Counternarcotics Strategy and submit the strategy to—

''(1) the appropriate congressional committees (including the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives);

''(2) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Indian Affairs of the Senate; and

''(3) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Natural Resources of the House of Representatives.

''(c) PURPOSES.—The Northern Border Counternarcotics Strategy shall—

''(1) set forth the strategy of the Federal Government for preventing the illegal trafficking of drugs across the international border between the United States and Canada, including through ports of entry and between ports of entry on the border;

''(2) state the specific roles and responsibilities of each relevant National Drug Control Program agency for implementing the strategy;

''(3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement the strategy; and

''(4) reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.

''(d) SPECIFIC CONTENT RELATED TO CROSS-BORDER INDIAN RESERVATIONS.—The Northern Border Counternarcotics Strategy shall include—

''(1) a strategy to end the illegal trafficking of drugs to or through Indian reservations on or near the international border between the United States and Canada; and

''(2) recommendations for additional assistance, if any, needed by tribal law enforcement agencies relating to the strategy, including an evaluation of Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.

''(e) LIMITATION.—

''(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall not change the exiting agency authorities and this section shall not be construed to amend or modify any law governing interagency relationships.

''(2) LEGITIMATE TRADE AND TRAVEL.—The Northern Border Counternarcotics Strategy shall be designed to promote, and not hinder, legitimate trade and travel.

''(f) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—

''(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall be submitted in unclassified form and shall be available to the public.

''(2) ANNEX.—The Northern Border Counternarcotics Strategy may include an annex containing any classified information or information the public disclosure of which, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, H.R. 4748 amends the Office of National Drug Control Policy Reauthorization Act of 2006 to require the Director of the National Drug Control Policy to submit to Congress a northern border counternarcotics strategy.

The United States' northern border with Canada is the longest open border in the world, spanning 12 States and over 4,000 miles. The House initially passed this bill 5 months ago, recognizing the increased amount of drug trafficking and related criminal activity occurring near the Canadian border, including on Indian reservations in that area.

To combat this development, H.R. 4748 requires the creation of a northern border counternarcotics strategy similar to what has been in place for our southwest border for several years. This will promote more effective consultation and coordination between Federal law enforcement agencies so that we can bring new force to our efforts to curb the flow of illegal drugs across the northern border and the crime it brings in its wake. In addition, H.R. 4748 gives Indian tribes with reservations on or near the Canadian border a consulting role in implementing the strategy on their reservations.

This bill is the result of efforts by our colleague, the gentleman from New York (Mr. OWENS), whose district spans 250 miles of the border on land along the St. Lawrence River and on Lake Erie. The Homeland Security chairman, the gentleman from Mississippi (Mr. THOMPSON), helped to shape the bill and bring it to the floor last summer. The Senate has now returned the bill with some modest, but helpful, refinements; and I urge my colleagues to support this revised version so that we can send it to the President.

I reserve the balance of my time.

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

Madam Speaker, H.R. 4748, the Northern Border Counternarcotics Strategy Act, requires the Director of the Office of National Drug Control Policy, ONDCP, to develop a counternarcotics strategy for the U.S. Canadian border. The House passed this legislation last July. The Senate made several technical and conforming changes to the language and sent it back to the House for final consideration.

Significant attention has been paid to drug trafficking along our southern border with Mexico, but the northern border with Canada is also a major transit point for high-potency marijuana, Ecstasy, and other illegal drugs. According to the 2010 National Drug Threat Assessment, Asian drug trafficking organizations produce the drug Ecstasy in Canada and then smuggle it across the northern border into the U.S. America's northern border is remote, heavily wooded and sparsely populated, ideal for smugglers seeking to move their product into the U.S. undetected.

In 2006, Congress directed the ONDCP to prepare a counternarcotics strategy for our southwestern border. H.R. 4748 mirrors this strategy, but for our northern border.

While we continue to address drug trafficking across our southern border, we must not lose sight of the ease with which our northern border can be exploited by dangerous drug smugglers. I urge my colleagues to support this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield the balance of my time to the gentleman from New York (Mr.

OWENS), who has been working hard on this particular bill.

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Mr. OWENS. Madam Speaker, I want to thank Chairman CONYERS and Chairman THOMPSON for their leadership and for bringing H.R. 4748 to the floor with the Senate amendment.

Our northern border with Canada spans over 4,000 miles, the longest open border in the world. I am intimately familiar with the unique status of our shared border. My congressional district in Upstate New York includes 13 ports of entry and border crossings, and nearly 2,000 jobs depend on a stable trading relationship with our northern neighbor.

We currently lack a unified approach to stopping the flow of drugs from the northern border. As the southern border has witnessed the spread of violence that has accompanied the increased drug trade, we must be proactive and vigilant in ensuring that our northern border remains safe and open for business. Organized criminal elements are increasingly exploiting the northern border to traffic narcotics, illicit cigarettes, firearms, and people. According to the 2010 National Drug Threat Assessment, the amount of ecstasy seized at or between northern border points of entry increased 594 percent from 2004 to 2009. In 2009, there were 1,100 drug-related arrests in New York's North Country. Just last week, the Franklin County Border Narcotics Task Force caught a Malone man believed to be headed downstate with 119 pounds of marijuana. The Narcotics Task Force, consisting of law enforcement officials from the Federal, State, and local level, stand to benefit greatly from this legislation. They will have the added advantage of increased cooperation and information sharing with their counterparts across the northern border.

By enacting this important legislation into law, the Federal agency that is responsible for stopping illegal drugs from entering the U.S. will, for the first time, be mandated by Congress to create a comprehensive strategy to stop the flow of drugs across the northern border. By coordinating the efforts of Federal, State, and local officials responsible for the safety of our communities, the Northern Border Counternarcotics Strategy Act will help ensure that law enforcement has the tools and information they need to keep the drug trade out of the northern border communities.

This legislation also recognizes the important balance between allowing the flow of legitimate trade and travel across the border with Canada and stopping the flow of illegal narcotics. This new strategy will reflect the unique nature of the small communities that dot the northern border and recognize the need for continued cooperation and coordination with our counterparts in Canadian law enforcement. This legislation will ultimately make these communities safer, attracting new businesses and providing the long-term assurances of protection they need to grow and prosper.

Upstate New York has benefited for decades from a robust business relationship with our Canadian neighbors, and any illegal activity that takes place over our borders threatens that relationship. The Northern Border Counternarcotics Strategy Act starts the process of developing a new approach to combating the international drug trade along our shared border with Canada. It is a vital component to the economic development and safety of our communities along that border. I ask my colleagues for their support.

Mr. THOMPSON of Mississippi. Madam Speaker, as an original cosponsor of H.R. 4748, I urge passage of this important homeland security bill so that it can be sent to the President for signature.

H.R. 4748, as amended by the Senate, would require the Director of National Drug Control Policy, ONDCP, to work with Federal, state, local, and international law enforcement to develop a comprehensive plan to prevent drug trafficking across the Northern Border. The bill requires the strategy to include clear recommendations for better coordination and assistance for tribal law enforcement agencies.

More often than not, when I hear someone lament about our "broken borders," they are talking about the Southern Border. While certainly the high-profile drug cartel violence and human smuggling activities warrant significant attention, we must not overlook the fact that there are significant border security challenges to the north, as well. In recent years, a diverse array of traffickers ranging from outlaw motorcycle gangs to Canadian drug rings have exploited the long, sparsely populated and very wooded border to traffic in large quantities of marijuana, ecstasy, and methamphetamines. Surveillance of the border is particularly challenging since smugglers have a wide range of delivery options—from helicopter and other small craft to boat and float plane to cattle trucks and even snowmobiles.

Representative OWENS, with his firsthand perspective of conditions on the Northern Border, is to be commended for authoring this bill to ensure that the Federal government has a unified approach to preventing the flow of drugs into the United States through this critical border—which spans about 4,000 miles.

The bill is not only integral to border security, but is vital for economic development in New York's North Country and other communities in the 13 states along our border with Canada. Thousands of jobs in these areas depend on the swift movement of lawful commerce across the Northern Border; illicit activity along the border risks undermining this critical trading relationship.

I congratulate Representative OWENS, a valuable member on the Homeland Security Community, for his work on Northern Border security issues and—especially—his efforts in introducing a strategic approach to stemming the flow of illicit drugs across the U.S.-Canadian border. I urge passage of H.R. 4748.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4748.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PREDISASTER HAZARD MITIGATION ACT OF 2010

Ms. NORTON. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program of the Federal Emergency Management Agency.

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 ''Predisaster Hazard Mitigation Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The predisaster hazard mitigation program has been successful and cost-effective. Funding from the predisaster hazard mitigation program has successfully reduced loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters.

(2) The predisaster hazard mitigation program has saved Federal taxpayers from spending significant sums on disaster recovery and relief that would have been otherwise incurred had communities not successfully applied mitigation techniques.

(3) A 2007 Congressional Budget Office report found that the predisaster hazard mitigation program reduced losses by roughly $3 (measured in 2007 dollars) for each dollar invested in mitigation efforts funded under the predisaster hazard mitigation program. Moreover, the Congressional Budget Office found that projects funded under the predisaster hazard mitigation program could lower the need for post-disaster assistance from the Federal Government so that the predisaster hazard mitigation investment by the Federal Government would actually save taxpayer funds.

(4) A 2005 report by the Multihazard Mitigation Council showed substantial benefits and cost savings from the hazard mitigation programs of the Federal Emergency Management Agency generally. Looking at a range of hazard mitigation programs of the Federal Emergency Management Agency, the study found that, on average, $1 invested by the Federal Emergency Management Agency in hazard mitigation provided the Nation with roughly $4 in benefits. Moreover, the report projected that the mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.

(5) Given the substantial savings generated from the predisaster hazard mitigation program in the years following the provision of assistance under the program, increasing funds appropriated for the program would be a wise investment.

SEC. 3. PREDISASTER HAZARD MITIGATION.

(a) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

''(f) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

''(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

''(A) is not less than the lesser of—

''(i) $575,000; or

''(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

''(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $180,000,000 for fiscal year 2011;

''(2) $200,000,000 for fiscal year 2012; and

''(3) $200,000,000 for fiscal year 2013.''.

(c) TECHNICAL CORRECTIONS TO REFERENCES.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) (42 U.S.C. 5195a(a)), by striking paragraph (7) and inserting the following:

''(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.''; and

(2) by striking ''Director'' each place it appears and inserting ''Administrator'', except—

(A) in section 622 (42 U.S.C. 5197a)—

(i) in the second and fourth places it appears in subsection (c); and

(ii) in subsection (d); and

(B) in section 626(b) (42 U.S.C. 5197e(b)).

SEC. 4. PROHIBITION ON EARMARKS.

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by adding at the end the following:

''(n) PROHIBITION ON EARMARKS.—

''(1) DEFINITION.—In this subsection, the term 'congressionally directed spending' means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

''(2) PROHIBITION.—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

''(3) CERTIFICATION TO CONGRESS.—The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Florida (Mr. MARIO DIAZ-BALART) each will control 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia.

GENERAL LEAVE

Ms. NORTON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous materials in the RECORD on the Senate amendment to H.R. 1746.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

I rise today to support H.R. 1746, as amended, a bill to reauthorize the predisaster mitigation program. This program's authorization expires with the current continuing resolution.

The predisaster mitigation program is authorized by section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or the Stafford Act, and was first authorized by this committee in the Disaster Mitigation Act of 2000. My subcommittee held a hearing in which we received testimony on empirical evidence that show that this predisaster mitigation program manages to get a substantial return on this investment, with some estimations as high as a 4-to-1 return to the national government.

Examples of mitigation activities highlighted at the hearing include the seismic strengthening of buildings and infrastructure, acquiring repetitively flooded homes, installing shelters and shatter-resistant windows in hurricane-prone areas, and the building of ''safe rooms'' in houses and other buildings to protect from high winds. The subcommittee came to the conclusion that predisaster mitigation is effective in accomplishing the goal of reducing the risk of future damage, hardship, and loss from all hazards, including loss of life.

H.R. 1746 would reauthorize the program for 3 years, make the minimum $575,000 or 1 percent of the total funds appropriated to carry out this section for the fiscal year, and codify the competitive aspects of the program. Senate changes to the bill include an explicit ban on earmarks or any congressionally directed spending, along with reducing authorization levels of $250 million annually to $180 million for fiscal year 2011, and $200 million for fiscal year 2012 and 2013.

This legislation has been endorsed by the National Association of Counties, International Association of Emergency Managers, the Association of State Floodplain Managers, the National Emergency Management Association, the National Association of Flood and Stormwater Management Agencies, and the American Public Works Association. In addition, the Federal Emergency Management Agency has requested a reauthorization of the predisaster mitigation program.

This program has consistently shown to provide an excellent return on investment, and I ask Members of the House to support the bill that protects both lives and property.

Madam Speaker, I reserve the balance of my time.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I yield myself such time as I may consume.

This bill reauthorizes the predisaster mitigation program for the next 3 years, as the gentlewoman from Washington, D.C., has just stated. I'm pleased to be a co-sponsor of this legislation, along with Chairman OBERSTAR, Ranking Member MICA, and Chairwoman NORTON, who is on the committee that I am the ranking member of.

The predisaster mitigation program was created by the Disaster Mitigation Act of 2000 as a pilot program to study the effects and the effectiveness of mitigation for those grants given to communities before a disaster may strike. Prior to creation of the predisaster mitigation program, hazard mitigation primarily occurred after disaster through FEMA'S Hazard Mitigation Grant Program.

We know that every disaster costs us a lot of money—and, obviously, more than money. In many times, even human life. It damages homes, businesses, and infrastructure. And, again, potentially loss of life.

Mitigation measures have been shown, Madam Speaker, to be very effective in mitigating the damage that occurs during a storm, and frankly, also in saving lives, which is, we would all agree, even more important. In fact, the investments that we make in mitigation actually saves taxpayer dollars. I think that deserves being repeated: It actually saves the taxpayer money.

Both the CBO, the Congressional Budget Office, and the National Institute of Building Sciences have determined that for every dollar invested in mitigation, $3 are actually saved in actual future losses. In addition, H.R. 1746, as amended, includes a clear prohibition on earmarks.

Now, the bottom line is, mitigation works. It's been proven to work. It saves lives, it limits future damages, and reduces Federal disaster costs. In other words, it saves the taxpayer money.

□ 1210

The predisaster mitigation program is an effective program that advances these goals that I just mentioned. So I support the passage of this legislation, and I urge my colleagues to do the same.

Madam Speaker, I would at this time, since I don't believe there are any further speakers, just mention two things.

First, I want to once again thank Chairwoman NORTON. It has been a privilege, an honor and a pleasure to be her ranking member. She has really, really been a great champion on issues of disaster mitigation. While she represents Washington, DC, except for that big snowstorm, it is an area you would hope would have no hurricanes or earthquakes. She has been a huge champion. She has visited areas. She has gone down to south Florida and has

visited the hurricane center and has held hearings down there. So she has been a great champion.

I would just tell you, on a personal note, that she has been wonderful to work with. I didn't know we were going to be on the floor together again, Madam Speaker, but as I said the last time, I will no longer be on the T&I Committee. I will now go to the Appropriations Committee. I would be remiss if I didn't mention, though, what a privilege it has been to work with my chairwoman.

Also, one of the true gentlemen in this process and one of the people I have grown to respect and admire is the chairman of the full committee, Mr. OBERSTAR, a person who has served this country with dignity, with honor and with great integrity, and who has been exceedingly fair. I can tell you that there have been not a couple of occasions, but many occasions, that I've gone to him because I've seen things that, well, frankly, I didn't like, most of which were driven by just passions.

I would go to him and say, Mr. Chairman, this is what's going on.

Frankly, you could see it in his face. He just did not tolerate anything that he believed was not fair on his committee.

Again, he is a public servant, one who has served this country and who has shown all of us, whether we agree with him or disagree with him—and I've had multiple disagreements with him—what public service is all about. So I just wanted to make sure that I put that in the record.

Madam Speaker, I yield back the balance of my time.

Ms. NORTON. I yield myself such time as I may consume.

First, I want to thank the gentleman from Florida. His kind and gentle words are typical of the way he has operated on the committee—always in the most collegial fashion when he talks about the District of Columbia and its not experiencing what, for example, his own district does in Florida.

I can only say we empathize with you in Florida and all over the country. We are all Americans; and every time that we sat together in hearings, we were, of course, cognizant of the fact that we were dealing with issues that affected the entire country.

It has been a great pleasure to work with the ranking member. We worked together on each and every bill. I cannot think of a single bill on which we found a disagreement, where we had something that we wanted to change and where we didn't discuss it or staff didn't discuss it.

I know Mr. OBERSTAR would very much appreciate your remarks as well. He is a one-of-a-kind chairman who had been here as a staff member with enormous influence, and then he became a chairman with outsized influence as well.

I understand that my good friend Mr. DIAZ-BALART thinks he has found sunnier shores on another committee, but I want him to know that I don't think he will ever have a better relationship with another Member on this side of the aisle. In the relationship that he and I have formed, it has come to be, indeed, a friendship.

So I say to him, Until we meet again, Mr. DIAZ-BALART.

I want to simply emphasize, in closing, the little bit of money for which there is a great return for 3 years. The Federal Government spent a token amount, $500 million; but according to the CBO, the reduction in future losses associated with that small $500 million is $1.6 billion in present value. No wonder this bill passed in the other body.

I urge my colleagues to approve this bill as well.

Mr. OBERSTAR. Madam Speaker, I rise today in strong support of the Senate amendment to H.R. 1746, the "Predisaster Hazard Mitigation Act of 2010". H.R. 1746, as amended, reauthorizes the Federal Emergency Management Agency's (FEMA) Pre-Disaster Mitigation (PDM) program and helps communities across the Nation protect against natural disasters and other hazards. I thank the gentleman from Florida (Mr. MICA), Ranking Member of the Committee, and the gentlewoman from the District of Columbia (Ms. NORTON), and the gentleman from Florida (Mr. DIAZ-BALART), the Chair and Ranking Member of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, respectively, for their bipartisan efforts on this bill.

The PDM program provides technical and financial assistance to State and local governments to reduce injuries, loss of life, and damage to property caused by natural disasters. Examples of mitigation activities include: seismic retrofitting of buildings to strengthen the buildings in case of an earthquake; acquiring repetitively flooded homes; installing shutters and shatter-resistant windows in hurricane-prone areas; and building "safe rooms" in houses and buildings to protect people from high winds.

Consideration of this bill today is crucial, as the PDM program is set to sunset with the expiration of the current continuing resolution. Therefore, Congress must take quick action to continue this vital program.

H.R. 1746, as amended, reauthorizes the PDM program for three years, at a level of $180 million for fiscal year 2011, and $200 million for each of fiscal years 2012 and 2013. The bill increases the minimum amount that each state receives under the program from $500,000 to $575,000, and codifies the competitive selection process of the program, as currently administered by FEMA.

In 1988, the Committee on Transportation and Infrastructure authorized FEMA's Hazard Mitigation Grant Program. This effective program provides grants to communities to mitigate hazards, but only provides grants to "build better" after a disaster. At the time, no program existed to help communities mitigate risks from all hazards before disaster strikes.

In the 1990s, under the leadership of FEMA Administrator James Lee Witt, FEMA developed a PDM pilot program known as "Project Impact", which was a predecessor program to the current PDM program. Congress appropriated funds for Project Impact in each of fiscal years 1997 through 2001.

The PDM program reduces the risk of natural hazards, which is where the preponderance of risk is in our country. While it is prudent to prepare for the possibility of terrorist attacks, the occurrence of natural disasters of all types and sizes is a known certainty. The flooding that is currently occurring in California, and the tornadoes that struck in my home state of Minnesota this summer, particularly in Wadena in my district, are examples of the tragic, real impact of natural disasters that occur in our nation every year.

Mitigation saves money. Studies by the Congressional Budget Office (CBO) and National Institute of Building Sciences show that for every dollar invested in PDM projects, future losses are reduced by three to four dollars. In 2005, the Multihazard Mitigation Council, an advisory body of the National Institute of Building Sciences, found "that a dollar spent on mitigation saves society an average of $4." Further, the Multihazard Mitigation Council found that flood mitigation measures yield even greater savings. According to a September 2007 CBO report on the reduction in Federal disaster assistance that is likely to result from the PDM program, "on average, future losses are reduced by about $3 (measured in discounted present value) for each $1 spent on those projects, including both federal and nonfederal spending."

While empirical data is critical, perhaps more telling are real-life mitigation "success stories". For instance, Seattle, Washington used Project Impact PDM grants to fortify buildings. Immediately after the Nisqually Earthquake struck Seattle on February 28, 2001, Seattle Mayor Paul Schell and other public officials cited those PDM grants as one of the primary reasons that lives and property were saved during the earthquake. Ironically, the Mayor's statements came on the same day that the President George W. Bush Administration claimed that the Project Impact PDM pilot program should be defunded because it was not effective.

Another example of the effectiveness of mitigation comes from my district. On July 4, 1999, a derecho, also known as a blow down, struck the Boundary Waters Canoe Area Wilderness and downed millions of trees. This created a huge fire hazard. As a result, FEMA mitigation funds were given to residents to install outdoor sprinkler systems to protect against wild fire. Unfortunately, in 2007, the Ham Lake Fire struck the area. Those structures that had sprinkler systems were protected from the fire. Since that time, communities in that area have sought and have been awarded more than $3 million of PDM funds to help protect other structures from this continuing risk of fire.

Mitigation is an investment. It is an investment that not only benefits the Federal Government, but State and local governments as well. Projects funded by the PDM program reduce the damage that would be paid for by the Federal Government for a major disaster under the Stafford Act. However, mitigation also reduces the risks from smaller, more frequent events that State and local governments face every day.

The PDM program takes citizens out of harm's way, by elevating a house or making sure a hospital can survive a hurricane or earthquake. In doing so, it allows first responders to focus on what is unpredictable in a disaster rather than on what is foreseeable and predictable.

H.R. 1746, as amended, eliminates the existing sunset in the program. As the evidence clearly shows, this program works well and is cost effective. It should no longer be treated as a pilot program with a sunset. Rather, State and local governments should have the certainty of knowing this program will be available in the future to enable them to focus their efforts on critical, long-term mitigation planning.

The Obama administration has specifically requested that Congress reauthorize the PDM program and this legislation has been endorsed by the National Association of Counties, International Association of Emergency Managers, the Association of State Floodplain Managers, the National Emergency Management Association, the National Association of Flood and Stormwater Management Agencies, and the American Public Works Association.

This bill passed the House more than a year and a half ago with overwhelming bipartisan support. The legislation passed the other body last night by unanimous consent. I would like to thank Senator JOSEPH LIEBERMAN and Senator SUSAN M. COLLINS for their persistent efforts to clear this legislation through the other body.

I urge my colleagues to join me in supporting H.R. 1746, as amended, the "Predisaster Hazard Mitigation Act of 2010".

Ms. NORTON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the District of Columbia (Ms. NORTON) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1746.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 2751, FDA FOOD SAFETY MODERNIZATION ACT; AND PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2142, GPRA MODERNIZATION ACT OF 2010

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 111–692) on the resolution (H. Res. 1781) providing for consideration of the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; providing for consideration of the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; and providing for consideration of the Senate amendment to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS, AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. MCGOVERN. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1771 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1771

Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules.

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported through the legislative day of December 24, 2010.

SEC. 2. It shall be in order at any time through the legislative day of December 24, 2010, 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.

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

Mr. MCGOVERN. For the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MCGOVERN. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1771.

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

There was no objection.

Mr. MCGOVERN. Madam Speaker, House Resolution 1771 waives the requirement of clause 6(a) of rule XIII, requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee. This would allow for the same-day consideration of any resolution reported through the legislative day of December 24, 2010.

The resolution allows the Speaker to entertain motions to suspend the rules through the legislative day of December 24, 2010. The Speaker or her designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to section 2 of the rule.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Good morning, Madam Speaker. Welcome to this week of Christmas.

I yield myself such time as I may consume.

I want to thank the gentleman from Massachusetts, my friend Mr. MCGOVERN, the vice chairman of the Rules Committee, for bringing this martial law rule to the floor of the House of Representatives today.

□ 1220

Madam Speaker, the 111th Congress is in its final days, or so the body hopes. The rule before us today provides for an expedited same-day consideration of all legislation brought forward until Christmas Eve and extends suspension authority for that same period. This martial law rule consists of the ability of the Democrats to bring 4 more days of expedited consideration on top of the 11 days my colleagues gave themselves on the 8th of December.

This Congress has seen a record number of restrictive rules over the past 2 years. In fact, we have not debated one open rule in this Congress. I don't believe that closing debate, limiting amendments, and shutting down Democrats and Republicans out of their thoughtful solutions on the House floor is what we were promised by Speaker PELOSI. Speaker PELOSI openly told the American people that she would run the most open, honest, and ethical Congress. Madam Speaker, I would say to you that as we started, so are we ending, in chaos.

It seems like every time I come to the House floor I point out that my Democrat colleagues are using an unprecedented, restrictive, and closed process. This is not what the American people wanted, and I believe the American people truly do want their Member of Congress to be able to come to Washington, DC, to fully participate in the process. And unfortunately, we find ourselves here again today with Members simply sitting back in their offices, wondering and waiting what is next, what are we even debating, what are we doing, rather than being actively involved in this democratic process. Madam Speaker, that's why people came to Congress.

This Congress has managed to rack up a record $1.4 trillion deficit in 2009, more than three times the size of the deficit in 2008, and it hit a $1.3 trillion deficit this year. Additionally, we have seen unemployment at or above 9.5 percent across this country for over 18 consecutive months and a national debt that has now ballooned to $13.4 trillion, and yet we see no end to the spending, which is evident by the rule that we are here discussing today. No discipline; no feedback from Members,

Members of this body coming faithfully to do their job, not even knowing what is happening and what is next, purely speculation. No sharing of information; no plan that can be executed based upon the Members of this body understanding what we're doing, where we're going, and what is next.

Madam Speaker, if there ever was a time when the American people need to know what the plan is and Members of Congress need to know what the plan is it would be now. It would be now for us to determine not only how to have fiscal restraint, but also, a majority who offered leadership, leadership on a budget process, leadership on a transparency process, leadership on the ability for Members of Congress to come and effectively represent their district and, perhaps more importantly, not just a budget that was never produced, how about an appropriations bill that was properly done.

Every single business that I know of—State and local government, families, schools—everybody has a budget. Even nonprofits who try and work in the best interest of a smaller group of people recognize you've got to have a plan. That's an exception for this Federal Government. It's an exception by this Congress, and that is not leadership.

As the chairman of the Budget Committee once said, If you can't budget, you cannot govern. I think he's right. That's exactly the truth of what Chairman JOHN SPRATT said. And if the shoe fits, we're wearing it right now. Unfortunately, we've come to expect this behavior from this majority, but, once again, there is always tomorrow. Republicans have made a pledge to America, and we intend to keep it.

I am happy to report that very soon, on or about January 5, 2011, there will be a significant course correction in this House of Representatives. Members will be expected to, and allowed to, read legislation before they cast their votes, take part in the activities of not only their committees, but also come to the Rules Committee with their ideas to take part in the process that they want to do.

I think open rules will make a triumphant return to the House floor, and elected Representatives, Members of Congress, will have a chance to fully contribute in this legislative process. It does not make me happy when I recognize that there is no Member, freshman Member of this body, who has not, for the last 2 years, seen this body work the way it was designed—a legislative process that would be open, a legislative process that would be ethical, and a legislative process that would be transparent for people.

So here we are, once again, the week before Christmas. I can handle that. I'm here ready to work but, like the rest of my colleagues, waiting for a small cadre of people to let us in on the plan.

I urge my colleagues to vote ''no'' on this rule. We've got to return to a process which is prepared for the future and prepared for Members to fully participate.

I yield back the balance of my time.

Mr. MCGOVERN. Madam Speaker, I regret that the gentleman from Texas will not support this rule so that we can move our legislative business forward, but I'm not surprised because, quite frankly, his party, the Republican Party, has had one goal since President Obama became President of the United States, and that is to obstruct and delay everything, and that's what they've tried to do.

The gentleman talks about democracy. Well, I think the American people are scratching their head as they see what's happening over in the Senate where a minority, not a majority, but a minority determines the agenda. A minority can hold legislation from coming to the floor. That's not the democracy that most people believe our government is about.

I'd also say to the gentleman that we look forward to the next legislative year, and we look forward to the gentleman and his party becoming the leaders of this House. And as someone who has been on the Rules Committee, both in the majority and minority, I don't recall a single instance when the gentleman, when his party was in power, ever voted against a closed rule proposed by the Republican then-majority, but we will see what happens.

And I will also say, Madam Speaker, that one of the things I think that the American people are now beginning to realize is that the Republicans are not at all serious about fiscal discipline. You know, I remind everybody that when Bill Clinton was President, we had record job creation and we had historical fiscal restraint. We actually eliminated the deficit and started paying down the debt.

When George Bush and the Republicans then took over, what ended up happening is they took this record surplus and turned it into historic debt. And how did they do it? Well, they did it through a number of things. Unpaid-for wars is one of them. The other is a Medicare prescription drug bill that, by the way, nobody here had a chance to read, that was voted on in the middle of the night. They kept the vote open 3 hours so that people's arms could be twisted, but it cost twice as much as anybody thought it was going to cost, not paid for.

But the thing that really broke the bank was their unprecedented tax cuts and giveaways to the wealthiest individuals in this country, not paid for, not paid for. And sadly, Madam Speaker, the Republicans in the Senate held unemployment compensation, benefits to the millions of people in this country who are unemployed through no fault of their own, held that hostage so they could get their tax cuts for the rich. And those tax cuts for the rich, by the way, Madam Speaker, are not paid for, not a single offset to pay for those tax cuts for the rich.

□ 1230

Donald Trump gets another tax cut, unpaid for; and guess what, that debt gets piled on the backs of my kids and the kids of every American in this country. It is just not right.

I think the American people are beginning to realize that their real goal is to go after domestic spending in an unprecedented way—Social Security, Medicare, programs that benefit the most vulnerable in our country. They will launch an unprecedented war against the poor in this country. We are going to see early on what their real agenda is. And I bet, Madam Speaker, as polls will reveal, it is not what the American people had in mind. So, again, I regret that the Republicans continue to want to do the same old, same old which is to delay and obstruct and put off and put off. But I think we need to pass this rule.

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

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

The previous question was ordered.

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. SESSIONS. Madam 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, this 15-minute vote on House Resolution 1771 will be followed by a 5-minute vote on suspending the rules with regard to H.R. 6540.

The vote was taken by electronic device, and there were—yeas 199, nays 151, not voting 83, as follows:

[Roll No. 657]

YEAS—199

Ackerman
Altmire
Andrews
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Cohen
Conyers
Cooper
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Driehaus
Edwards (MD)
Edwards (TX)
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)

Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Perlmutter
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Skelton
Slaughter
Snyder
Space
Speier
Spratt
Stupak
Sutton
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Watson
Watt
Waxman
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—151

Aderholt
Akin
Alexander
Austria
Bachus
Bartlett
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coffman (CO)
Cole
Conaway
Davis (KY)
Dent
Diaz-Balart, M.
Djou
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Johnson (IL)
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
McCaul
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Pence
Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stutzman
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf

NOT VOTING—83

Adler (NJ)
Arcuri
Baca
Bachmann
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Bright
Brown-Waite, Ginny
Buyer
Calvert
Camp
Campbell
Cao
Chu
Clyburn
Coble
Connolly (VA)
Costello
Crenshaw
Culberson
Davis (AL)
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Ellison
Ellsworth
Fallin
Granger
Grayson
Griffith
Heller
Herseth Sandlin
Hodes
Honda
Inglis
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Lee (CA)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Meek (FL)
Melancon
Miller, Gary
Minnick
Mitchell
Murphy (NY)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Paulsen
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Shea-Porter
Sires
Smith (WA)
Stark
Stearns
Tanner
Wasserman Schultz
Waters
Weiner
Welch
Young (AK)
Young (FL)

□ 1300

Messrs. DENT, TERRY, DANIEL E. LUNGREN of California, KING of Iowa, and McCAUL changed their vote from ''yea'' to ''nay.''

Mrs. MALONEY changed her vote from ''nay'' to ''yea.''

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.

DEFENSE LEVEL PLAYING FIELD ACT

The SPEAKER pro tempore (Mr. HOLDEN). The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 6540) to require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess, 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 Washington (Mr. INSLEE) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 325, nays 23, not voting 85, as follows:

[Roll No. 658]

YEAS—325

Ackerman
Akin
Altmire
Andrews
Austria
Baldwin
Barrow
Bartlett
Bean
Becerra
Berkley
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blunt
Boccieri
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Buchanan
Burgess
Burton (IN)
Butterfield
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Clarke
Clay
Cleaver
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Courtney
Critz
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (KY)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Hastings (FL)
Hastings (WA)
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hoekstra
Holden
Holt
Hoyer
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
King (IA)
Kingston
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebsack
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McNerney
Meeks (NY)
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Owens
Pallone
Pascrell
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schmidt
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Space
Speier
Spratt
Stupak
Sullivan
Sutton
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
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth

NAYS—23

Aderholt
Alexander
Bachus
Blackburn
Bonner
Boustany
Brady (TX)
Cassidy
Davis (AL)
Flake
Fleming
Garrett (NJ)
Harper
Hensarling
Herger
McClintock
Miller (FL)
Paul
Rogers (AL)
Ryan (OH)
Scalise
Shadegg
Stutzman

NOT VOTING—85

Adler (NJ)
Arcuri
Baca
Bachmann
Baird
Barrett (SC)
Barton (TX)
Berman
Berry
Bishop (UT)
Blumenauer
Boehner
Bright
Brown-Waite, Ginny
Buyer
Calvert
Camp
Campbell
Cao
Chu
Clyburn
Coble
Costello
Crenshaw
Crowley
Culberson

Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Ellison
Ellsworth
Fallin
Granger
Grayson
Griffith
Heller
Herseth Sandlin
Hodes
Honda
Inglis
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Kucinich
Lee (CA)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Meek (FL)
Melancon
Miller, Gary
Minnick
Mitchell
Murphy (NY)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Paulsen
Radanovich
Reyes
Rogers (KY)
Rush
Salazar
Sanchez, Loretta
Schock
Sires
Slaughter
Smith (WA)
Stark
Stearns
Tanner
Wasserman Schultz
Waters
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1306

Messrs. WESTMORELAND and KING of Iowa changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MCMORRIS RODGERS. Mr. Speaker, on rollcall No. 657 on H. Res. 1771, On Agreeing to the Resolution, Waiving a requirement of clause 6(a) of Rule XIII with respect to consideration of certain resolutions reported from the Committee on rules, and providing for consideration of motions to suspend the rules, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

Mr. Speaker, on rollcall No. 658 on H.R. 6540, On Motion to Suspend the Rules and Pass, Defense Level Playing Field Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''yea.''

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Speaker, I was unavoidably detained and missed rollcall votes 657 and 658. If I had been present, I would have voted ''no'' on rollcall 657 and ''yes'' on rollcall 658.

PERSONAL EXPLANATION

Mr. ELLISON. Mr. Speaker, on December 21, 2010, due to travel delays, I inadvertently missed rollcall Nos. 657 and 658. Had I been present I would have voted ''yes'' on both rollcalls.

PERSONAL EXPLANATION

Mr. GRAYSON. Mr. Speaker, on rollcall Nos. 657 and 658, I was absent because my flight from Orlando had an equipment failure in mid-flight and had to return to Orlando, resulting in a lengthy delay. Had I been present, I would have voted ''aye.''

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 2751, FDA FOOD SAFETY MODERNIZATION ACT; AND PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2142, GPRA MODERNIZATION ACT OF 2010

Mr. MCGOVERN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1781 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1781

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Science and Technology or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

SEC. 2. Upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, with the Senate amendments thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a single motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendments. The Senate amendments shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to its adoption without intervening motion or demand for division of the question.

SEC. 3. Upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of I rule XXI, a motion offered by the chair of the Committee on Oversight and Government Reform or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

□ 1310

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

Mr. MCGOVERN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from North Carolina, Dr. FOXX. All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MCGOVERN. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on H. Res. 1781.

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

There was no objection.

Mr. MCGOVERN. Mr. Speaker, House Resolution 1781 provides for the consideration of the Senate amendment to H.R. 5116, the America COMPETES Reauthorization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Science and Technology or his designee that the House concur in the Senate amendment to H.R. 5116. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment shall be considered as read.

The rule also provides for consideration of the Senate amendments to H.R. 2751, the FDA Food Safety Modernization Act. The rule makes in order a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendments to H.R. 2751. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides the Senate amendments shall be considered as read.

The rule also provides for the consideration of the Senate amendment to H.R. 2142, the GPRA Modernization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Oversight and Government Reform or his designee that the House concur in the Senate amendment to H.R. 2142. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. The rule waives all points of order against consideration of the motion, except those arising under clause 10 of rule XXI. Finally, the rule provides that the Senate amendment be considered as read.

Mr. Speaker, all three pieces of legislation deserve to be approved by this House.

Mr. Speaker, today we will take up a rule that helps this Congress complete the work the American people sent us here to do.

It has been far too long since this Congress has addressed the issue of food safety. Each year, 76 million Americans are sickened from consuming contaminated food, more than 300,000 people are hospitalized, and 5,000 die. In just the last few years, there has been a string of food-borne illness outbreaks in foods consumed by millions of Americans each day—from contaminated spinach to peanut butter to cookie dough.

This bill puts a new focus on preventing food contamination before it occurs—putting new responsibilities on food producers and requiring them to develop a food safety plan and ensure the plan is working.

By requiring importers to verify the safety of foreign suppliers and imported food, the American people can rest assured that the food they are eating is safe. And this bill allows the FDA to initiate a mandatory recall of a food product when a company fails to voluntarily recall the contaminated product upon FDA's request.

Mr. Speaker, the American people have asked Congress to help keep them safe. The text of this food safety legislation in H.R. 2751 is nearly identical to language passed by the House in the continuing resolution on December 8, 2010, and passed the Senate on November 30, 2010, by a bipartisan vote of 73–25.

H.R. 2751, this stand-alone food safety legislation, passed the Senate by voice vote on December 19, 2010.

Mr. Speaker, this rule also provides for the consideration of H.R. 5116, the America COMPETES Reauthorization Act of 2010. This bill invests in innovation through research and development, to improve the competitiveness of the United States.

Mr. Speaker, the jobs of the future will not just be found in the industries of the past. They will be found in green technologies, biotechnology and advances in medical devices. This bill makes vital investments to keep America competitive in the global economy.

By making investments in the National Science Foundation, the National Institute of Science and Technology and the Department of Energy's Office of Science, America can be put on a path to double our research and development capabilities in 10 years.

This funding will support programs to assist American manufacturers and create a loan guarantee program to support innovation in manufacturing. It will also support research and internship opportunities for high school and undergraduate students, increase graduate fellowships supported by NSF and DOE, and encourage students studying in Science, Technology, Engineering and Math areas to pursue teaching credentials, increasing the pool of qualified teachers for the next generation of young innovators. It will also promote productivity and economic growth by forming an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services.

The Senate took up H.R. 5116, the America COMPETES Reauthorization on December 17, 2010, and passed it with an amendment by unanimous consent.

Mr. Speaker, I believe that we can all get behind a bill that helps keep America driving the pace of technology.

I also believe that we can all get behind the final piece of this rule that allows for consideration of H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010.

This bill requires each federal agency to draft plans that identify areas where the agency could improve its performance. At a time of year when many of us are making resolutions to better ourselves and to rid ourselves of our bad habits, I think it's fitting that Congress and our Federal government takes a look at itself to see where we can improve.

Mr. Speaker, we were not sent here to be lame ducks. And this Congress has proven to be anything but, despite attempts to slow or cut off the process. This Congress has been one of the most productive in history—at a time when we need to be doing a little less nation-building around the world and more nation-building here at home. These important pieces of legislation will continue that productive work.

I reserve the balance of my time.

Ms. FOXX. I want to thank the gentleman from Massachusetts for yielding time, and I yield myself such time as I may consume.

Mr. Speaker, I rise today very disturbed by the lack of respect the ruling Democrat elites have shown for the will of the American people since election day. Having lost 63 seats in the House and six seats in the Senate, one would think the liberal Democrat regime would think twice about continuing their reckless pattern of spending that has been so overwhelmingly rejected by the American voting public. However, these Washington elites have spent their last days grasping frantically to their waning power and continuing to spend, spend, spend, even in the final hours before Christmas.

This rule is a slap in the face to the institutional integrity of Congress and the way this body is intended to operate.

Mr. Speaker, I have an article that I would like to insert in the RECORD from The Wall Street Journal of November 30. This article talks about what has been happening since we have come back into session, and I think it is something that we need to be talking about.

Also, I want to say that rather than having conference committees meet to work out the differences between the House and Senate versions of bills, Democratic leaders have waited until the last minute and the House will now concur with the Senate-passed measures, sending them to the President.

Thus far in the 111th Congress, only 11 conference reports were considered in the House and 25 amendments between the House and the Senate, which denies the minority a motion to recommit. In the 109th Congress, 25 conference reports were considered and only one amendment between the Houses, on which the Rules Committee made a motion to recommit in order. The 109th was when the Republicans were last in control.

In PELOSI's New Direction for America, page 24, it states, ''Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the minority the right to offer its alternatives, including a substitute.''

It is clear that the House Democrats on the Rules Committee have not lived up to this promise. Instead of allowing sufficient time for debate on these separate measures which collectively authorize billions upon billions in new spending and grant Federal regulators even more overreaching power, the Democrat elites are arbitrarily presenting us with one overarching closed rule for three separate and enormous pieces of legislation.

For those reasons, Mr. Speaker, I will urge my colleagues to vote ''no'' on the rule and ''no'' on the underlying bills.

[From the Wall Street Journal, Nov. 30, 2010]

FEDERAL FREEZE PLAY

American Federation of Public Employees President John Gage yesterday derided President Obama's federal pay freeze as a ''slap at working people.'' It might better be described as a small but symbollc first step toward reining in a ballooning federal payroll that is a slap at the non-government workers who pay the bills.

Mr. Obama proposed a two-year pay freeze for all civilian federal employees, a move that will save taxpayers $2 billion in fiscal 2011 and $28 billion over five years. (Congress must approve it.) As cost-cutting goes, this is modest: The freeze doesn't extend to new hiring, bonuses or step increases. It doesn't even match the three-year freeze recommended by the President's deficit commission. But it is more than this Administration has ever been willing to consider, and it suggests that Mr. Obama, post-midterm-shellacking, realizes he must show some willingness to restrain the growth of government.

It certainly needs restraint. As the nearby table shows (see accompanying table—WSJ November 30, 2010), federal employment has grown by a remarkable 17% since 2007 to an estimated 2.1 million nonmilitary full-lime workers (excluding 600,000 postal workers). This is the largest federal work force since 1992, when civilian employment at the Pentagon began to shrink rapidly after the Cold War.

These federal employees operate in a pay-and-benefit universe that no longer exists in the private economy. According to recent analyses by USA Today, total compensation for federal workers has risen 37% over 10 years—after inflation—compared to 8.8% for private workers. Federal workers earned average compensation of $123,000 in 2009, double the private average of $61,000. Unions like to argue that federal jobs are unique, yet in occupations that exist both in government and the private economy—nurses, surveyors, janitors, cooks—the federal government pays 20% more than private firms.

Voters have swept GOP reformers like New Jersey's Chris Christie and Wisconsin's Scott Walker into gubernatorial office precisely to rein in bloated public-employee pensions and salaries. If Mr. Obama is serious about cutting spending, his pay freeze needs to be an opening bid for a leaner, more modestly compensated, federal work force.

With that, Mr. Speaker, I yield 5 minutes to my distinguished colleague from Oklahoma (Mr. LUCAS).

Mr. LUCAS. Mr. Speaker, once again I must rise in opposition to this rule to reconsider the Senate language from S. 510, the Food Safety Modernization Act—now contained in H.R. 2751, a bill related to the Cash for Clunkers program.

As I have stated before, I believe our Nation has the safest food supply in the world. I also believe that we must continually examine our food production and regulatory system and move forward with changes that improve food safety.

I am very disappointed in the process by which this legislation is being considered. What we have here is another expansion of Federal power without benefit of thorough consideration. This is the stimulus bill, cap-and-trade, and the health care bill all over again.

The House version of this legislation was rolled out in draft form and marked up in the Energy and Commerce Committee over a couple of weeks during the summer of 2009. During all that time, members of the House Agriculture Committee stood ready and willing to work on this legislation. It is unfortunate that, despite a clear jurisdictional claim, the House Agriculture Committee did not demand that the bill be referred, conduct hearings on its provisions, and work our will to make improvements.

During the committee hearing in the summer of 2009 on the general topic of food safety, not a single producer witness would support the bill. It was a stunning failure to fulfill our legislative responsibilities. Despite this, the House Democratic leadership chose to attempt to pass this legislation under a suspension of the rules. Because of the flawed legislative process and lingering concerns about the contents of the bill, it was defeated. Failing to learn the lesson of that vote, within days, the leadership subsequently secured a closed rule denying Members the opportunity to participate in the legislative process and rammed it through the House in the summer of 2009.

□ 1320

They sent the legislation to the Senate, where it languished for over a year.

In the closing days of Congress, the Senate sent us its version of food safety legislation with an unconstitutional revenue measure, which effectively killed the bill. Then the House leadership won another closed rule, which prohibited any reasonable debate on the provisions of the legislation and sent it back to the Senate in a mammoth, irresponsible, long-term continuing resolution, which failed in the Senate.

So now the Senate sent its bill back to us as a free-standing measure. This time, it's stuffed into a Cash for Clunkers bill in order to once again bypass any reasonable debate. And here we are again with the same legislation negotiated outside of regular order. The Senate was originally unwilling to conduct a conference with the House, claiming there wasn't enough time. The Senate continues to offer its bill to us on a take-it-or-leave-it basis.

Mr. Speaker, we've had nearly a month in which this side of the aisle was ready, willing, and able to sit down and resolve our issues and to move forward. Unfortunately, the majority leadership in this season of giving has chosen to once again bypass the normal legislative process, exclude nearly every Member of this body, other than a select few in the Speaker's inner circle, and ram this legislation that, for all intents and purposes, could have been a bipartisan victory. Instead, what we're left with is another example of the sort of nonsense that the voters of America rejected just a few weeks ago. This is no way to do business, and our constituents were not subtle when they spoke last November.

Mr. Speaker, let me return to where I started. We have the safest food supply in the world. Anyone who follows current events knows that our food-producing system faces ongoing safety challenges. Unfortunately, neither this legislation nor the process by which it is being considered will address those challenges. Our Nation's farmers, ranchers, packers, processors, retailers and, most importantly, consumers deserve better.

I urge all of my colleagues to vote ''no'' on this rule.

Mr. McGOVERN. Mr. Speaker, I don't want to prolong this debate, but if I could just make a couple of observations in the aftermath of the gentleman's speech. I should remind my colleagues that each year, 76 million Americans are sickened by contaminated food that they consumed. More than 300,000 of them are hospitalized and more than 5,000 each year die. We've heard about tainted eggs, tainted spinach, tainted peanut butter, tainted cookie dough. We haven't updated our food safety laws in decades.

So here's the deal. If you want to do a better job of protecting the American consumer, you will have an opportunity, if you vote for this rule, to vote for the food safety bill. If you don't, then vote down the rule and vote against the bill when it comes up.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Mr. LUCAS has spoken very eloquently about one piece of the legislation rolled into this rule. I would like to speak about all three of them, briefly. One piece is H.R. 5116, the COMPETES Act, a behemoth, authorizing nearly $86 billion, which is $22 billion above the fiscal 2010 base amount and $8 billion above the original 10-year ''doubling path.'' This is in addition to the nearly $5 billion in additional funding that was provided in the so-called ''stimulus'' bill.

When H.R. 5116 was authorized in 2007, it enacted approximately 40 new programs. The new spending under H.R. 5116 would create at least seven new government programs, many that are not associated with research and development, and others that are duplicative and unnecessary. This is plain wrong, Mr. Speaker.

It's worth recalling that when H.R. 5116 was originally considered by Congress earlier this year, Republicans attempted to make several constructive changes which were systematically blocked by the ruling liberal majority. One of these changes would have saved billions of taxpayer dollars by reducing the authorization levels to FY 2010 levels and freezing them for 3 years. However, in an effort to obstruct Republicans, the liberal Democrat elites did the American people disservice by using a series of parliamentary tricks to shove their bill through without allowing any Republican input.

Mr. Speaker, in these difficult economic times, American families across the country are tightening their belts and cutting their spending. Why then are the Democratic elites increasing spending by $22 billion with this legislation and creating new duplicative government programs? The American taxpayers cannot afford this bill.

The second bill encompassed by this closed rule which the Democrat elites have brought before us today is H.R. 2751, the FDA Food Safety Modernization Act, again, which my colleague from Oklahoma (Mr. LUCAS) has spoken on so eloquently. This bill increases spending by $1.4 billion, subsequently increasing the price of food and increasing the size of government without actually improving food safety.

This hastily considered closed rule provides for consideration of yet another bill, H.R. 2142, the Government Efficiency, Effectiveness, and Performance Act of 2010, which is so riddled with problems that last week it failed to garner the votes necessary to pass under a suspension of the rules. Instead of taking this as an opportunity to fix the flaws and address the other concerns prompting the bill's failure, the ruling liberal Democrats predictably chose to ram it through by any means necessary. And since they've wasted so much time tilting at windmills, they find themselves here in the waning days of this lame duck Congress scrambling to address issues that should've been dealt with through a responsible legislative process.

As they wait for the Senate to act, they're refusing to yield any free moment to pursue one of their last opportunities to slam through another so-called rule—unworthy even to be called a rule—providing for consideration of flawed legislation, such as H.R. 2142.

This bill would amend the Government Performance and Results Act of 1993, GPRA, a law which currently requires agencies to develop 5-year strategic plans, annual performance plans, and actual program performance reports. Unfortunately, under the rules of debate provided for by this rule, the ruling Democrat majority refuses to allow Members to offer these types of

real reform ideas or any other amendments, leaving this legislation unlikely to do anything to change the incentives facing decision-makers and will not end the perpetual funding of failing Federal programs.

As has been made perfectly clear to the ruling liberal Democrat leadership, many are concerned that although there's no cost estimate available for this version of the bill, it authorizes $75 million over 5 years to establish agency performance officers and interagency councils, but does not contain an effective means to consolidate or eliminate ineffective programs at each agency. If you add the 17,800 employees that the food safety bill is contemplating and then the new employees that will be required under the GPRA bill, we are adding to the number of Federal employees. But we should be decreasing the number of Federal employees.

I want to talk a minute about what has happened in terms of Federal employees since the Democrats took over the Congress. In 2007, there were a total of 1,832,000 executive branch employees and in the civilian agencies there were 1,173,000. In 2010, it goes to 2,148,000 and 1,428,000. Federal employment has grown by a remarkable 17 percent since 2007, to an estimated 2.1 million nonmilitary full-time workers. This is the largest workforce since 1992.

Also, Mr. Speaker, according to a recent analysis by USA Today, total compensation for Federal workers has risen 37 percent over 10 years, after inflation, compared to 8.8 percent for private workers. Federal workers earned an average compensation of $123,000 in 2009—double the private average of $61,000.

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Mr. Speaker, our country cannot afford this expansion of the Federal Government. We need to be reducing the Federal Government, not expanding it.

I would like to say further this version of the bill does not contain an amendment considered in committee markup by Republican Representative SCHOCK and supported by Democrat Congressmen COOPER and QUIGLEY that would have established a more thorough process for evaluating agency performance and eliminating programs that failed performance standards, were found to be duplicative or determined to be unnecessary.

H.R. 2142 mandates the creation of several new government-wide and agency-specific management plans. However, it does not—does not—increase executive accountability for failing programs.

Mr. Speaker, again, this bill is going in the wrong direction. What it does is it allows agencies to design their performance plans and then to measure their own results, using their own performance indicators. Rather than requiring agencies to focus on achieving measurable outcomes, the bill makes the creation of outcome-oriented performance measures optional. This would be like, Mr. Speaker, letting students set the criteria for getting their own grades, and we all know that doesn't work very well.

Strangely enough, also in the process, the bill directs agencies to ''identify low-priority program activities,'' which is ridiculous because, even if agencies had an incentive to label their own programs as ''low priority,'' they do not. This begs the question of why such programs are funded at all.

Mr. Speaker, the evidence is in. The liberal Democrat agenda has failed. They need to go back to the drawing board and come back to the American people with real solutions to their real problems. This isn't the time to dither and blame the Republican minority for the disappointing collapse of governance we have seen since the liberal majority seized control of Congress in 2007.

I urge my colleagues to take this opportunity to force the ruling liberal Democrats to rethink their misguided proposals by rejecting this rule and the underlying legislation and by protesting the liberal agenda that continues to distract from private-sector job creation and from getting the economy back on its feet.

I yield back the balance of my time.

Mr. MCGOVERN. I yield myself the balance of my time.

Mr. Speaker, oh, my goodness. There are a lot of things that come before the Members of this body that, I think, are worth getting all worked up about and that, I think, sometimes understandably lead to partisan bickering; but as to what we are talking about here today, to me and to, I think, most people who are watching, this should be fairly noncontroversial.

What we are talking about is a rule that will allow us to consider three bills. One is called the America COMPETES Reauthorization Act of 2010.

What does this radical bill do?

It authorizes funding increases for the National Science Foundation, the National Institutes for Science and Technology, and the Department of Energy's Office of Science for fiscal years 2010–2013, on a path toward increasing substantially our investment in research and development over the next 10 years. It is not even an appropriation. It is an authorization.

So the Appropriations Committee next year can work their will and decide whether to invest more in science so that we can compete in this global economy, or will we not invest in science and actually do what some of my friends on the other side of the aisle will tell you about taking a meat ax to these programs, you know, and putting ourselves at a competitive disadvantage?

This is a bill about supporting and expanding American energy technology so we are not so reliant on foreign oil and so we don't go to war over oil. It is a national security issue, but this somehow is a controversial bill. This should pass easily.

The other bill that is so radical, according to my colleague on the Republican side of the aisle, is called the Government Efficiency, Effectiveness, and Performance Improvement Act.

What does this bill do?

It basically says to agencies and departments, look, you need to work to come up with a plan to prevent unnecessary and wasteful spending and to help eliminate Federal Government waste by working with us to help us find where those wasteful areas are.

Now, this is what is causing such consternation on the other side of the aisle? I mean, rather than just taking a meat ax and saying an arbitrary percentage cut across the board, what this bill says is let's think about what we're doing. Maybe we can cut 5 percent; maybe we can cut 10 percent; maybe we can cut even more.

Well, let's do this in a sensible way where we don't adversely impact services that directly impact the American people for the good. Let's have a plan. Let's just not do this senselessly. Let's do this sensibly. Somehow, this radical, awful bill has caused all this noise by my colleague on the other side of the aisle.

The final bill is the Food Safety Modernization Act. Mr. Speaker, as I said earlier—and it's worth repeating—in this country, literally 76 million Americans on a yearly basis are sickened by contaminated food that they digest—76 million Americans a year. More than 300,000 of them end up going to hospitals on a yearly basis, and 5,000 die.

So what is this Congress trying to do?

We are trying to find a way to protect consumers, and my colleague on the other side of the aisle is all upset about it. Oh, boy. What a terrible, awful idea to protect the health and well-being of the citizens of this country by updating our food safety rules and regulations, which haven't been updated in almost 30 years.

Come on. I mean let's move forward with this rule. Let's consider these bills. I am sure they all will pass.

With that, Mr. Speaker, I urge a ''yes'' vote on the previous question and on the rule.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. GORDON of Tennessee. Mr. Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment:

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—this Act may be cited as the ''America COMPETES Reauthorization Act of 2010'' or the ''America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Budgetary impact statement.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Sec. 101. Coordination of Federal STEM education.
Sec. 102. Coordination of advanced manufacturing research and development.
Sec. 103. Interagency public access committee.
Sec. 104. Federal scientific collections.
Sec. 105. Prize competitions.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 201. NASA's contribution to innovation and competitiveness.
Sec. 202. NASA's contribution to education.
Sec. 203. Assessment of impediments to space science and engineering workforce development for minority and under-represented groups at NASA.
Sec. 204. International Space Station's contribution to national competitiveness enhancement.
Sec. 205. Study of potential commercial orbital platform program impact on Science, Technology, Engineering, and Mathematics.
Sec. 206. Definitions.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Sec. 301. Oceanic and atmospheric research and development program.
Sec. 302. Oceanic and atmospheric science education programs.
Sec. 303. Workforce study.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Sec. 401. Short title.
Sec. 402. Authorization of appropriations.
Sec. 403. Under Secretary of Commerce for Standards and Technology.
Sec. 404. Manufacturing Extension Partnership.
Sec. 405. Emergency communication and tracking technologies research initiative.
Sec. 406. Broadening participation.
Sec. 407. NIST Fellowships.
Sec. 408. Green manufacturing and construction.
Sec. 409. Definitions.

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS

SUBTITLE A—NATIONAL SCIENCE FOUNDATION

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Authorization of appropriations.
Sec. 504. National Science Board administrative amendments.
Sec. 505. National Center for Science and Engineering statistics.
Sec. 506. National Science Foundation manufacturing research and education.
Sec. 507. National Science Board report on mid-scale instrumentation.
Sec. 508. Partnerships for innovation.
Sec. 509. Sustainable chemistry basic research.
Sec. 510. Graduate student support.
Sec. 511. Robert Noyce teacher scholarship program.
Sec. 512. Undergraduate broadening participation program.
Sec. 513. Research experiences for high school students.
Sec. 514. Research experiences for undergraduates.
Sec. 515. STEM industry internship programs.
Sec. 516. Cyber-enabled learning for national challenges.
Sec. 517. Experimental Program to Stimulate Competitive Research.
Sec. 518. Sense of the Congress regarding the science, technology, engineering, and mathematics talent expansion program.
Sec. 519. Sense of the Congress regarding the National Science Foundation's contributions to basic research and education.
Sec. 520. Academic technology transfer and commercialization of university research.
Sec. 521. Study to develop improved impact-on-society metrics.
Sec. 522. NSF grants in support of sponsored post-doctoral fellowship programs.
Sec. 523. Collaboration in planning for stewardship of large-scale facilities.
Sec. 524. Cloud computing research enhancement.
Sec. 525. Tribal colleges and universities program.
Sec. 526. Broader impacts review criterion.
Sec. 527. Twenty-first century graduate education.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

Sec. 551. Purpose.
Sec. 552. Program requirements.
Sec. 553. Grant program.
Sec. 554. Grant oversight and administration.
Sec. 555. Definitions.
Sec. 556. Authorization of appropriations.

TITLE VI—INNOVATION

Sec. 601. Office of innovation and entrepreneurship.
Sec. 602. Federal loan guarantees for innovative technologies in manufacturing.
Sec. 603. Regional innovation program.
Sec. 604. Study on economic competitiveness and innovative capacity of United States and development of national economic competitiveness strategy.
Sec. 605. Promoting use of high-end computing simulation and modeling by small- and medium-sized manufacturers.

TITLE VII—NIST GREEN JOBS

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. National Institute of Standards and Technology competitive grant program.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. Government Accountability Office review.
Sec. 802. Salary restrictions.
Sec. 803. Additional research authorities of the FCC.

TITLE IX—DEPARTMENT OF ENERGY

Sec. 901. Science, engineering, and mathematics education programs.
Sec. 902. Energy research programs.
Sec. 903. Basic research.
Sec. 904. Advanced Research Project Agency-Energy.

TITLE X—EDUCATION

Sec. 1001. References
Sec. 1002. Repeals and conforming amendments.
Sec. 1003. Authorizations of appropriations and matching requirement.

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—In title I, the term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) STEM.—The term ''STEM'' means the academic and professional disciplines of science, technology, engineering, and mathematics.

SEC. 3. BUDGETARY IMPACT STATEMENT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 101. COORDINATION OF FEDERAL STEM EDUCATION.

(a) ESTABLISHMENT.—The Director shall establish a committee under the National Science and Technology Council, including the Office of Management and Budget, with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) RESPONSIBILITIES.—The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) coordinate STEM education activities and programs with the Office of Management and Budget;

(3) encourage the teaching of innovation and entrepreneurship as part of STEM education activities;

(4) review STEM education activities and programs to ensure they are not duplicative of similar efforts within the Federal government;

(5) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(6) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities.

(b) RESPONSIBILITIES OF OSTP.—The Director shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(5) is developed and executed effectively and that the objectives of the strategic plan are met.

(c) REPORT.—The Director shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(5). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) an evaluation of the levels of duplication and fragmentation of the programs and activities described under paragraph (1);

(4) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(5) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1)(A) and (B) of section 3175 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381j(c)(1)(A) and (B)).

SEC. 102. COORDINATION OF ADVANCED MANUFACTURING RESEARCH AND DEVELOPMENT.

(a) INTERAGENCY COMMITTEE.—The Director shall establish or designate a Committee on Technology under the National Science and Technology Council. The Committee shall be responsible for planning and coordinating Federal programs and activities in advanced manufacturing research and development.

(b) RESPONSIBILITIES OF COMMITTEE.—The Committee shall—

(1) coordinate the advanced manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for advanced manufacturing research and development that will strengthen United States manufacturing;

(3) work with industry organizations, Federal agencies, and Federally Funded Research and Development Centers not represented on the Committee, to identify and reduce regulatory, logistical, and fiscal barriers within the Federal government and State governments that inhibit United States manufacturing;

(4) facilitate the transfer of intellectual property and technology based on federally supported university research into commercialization and manufacturing;

(5) identify technological, market, or business challenges that may best be addressed by public-private partnerships, and are likely to attract both participation and primary funding from industry;

(6) encourage the formation of public-private partnerships to respond to those challenges for transition to United States manufacturing; and

(7) develop, and update every 5 years, a strategic plan to guide Federal programs and activities in support of advanced manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan;

(C) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies and United States based manufacturing of new products and processes for the benefit of society to ensure national, energy, and economic security;

(D) describe how Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce;

(E) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will assist small- and medium-sized manufacturers in developing and implementing new products and processes; and

(F) take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the strategic plan developed under subsection (b)(7) to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science and Technology, and shall transmit subsequent updates to those committees as appropriate.

SEC. 103. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) ESTABLISHMENT.—The Director shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) RESPONSIBILITIES.—The working group shall—

(1) identify the specific objectives and public interests that need to be addressed by any policies coordinated under (a);

(2) take into account inherent variability among Federal science agencies and scientific disciplines in the nature of research, types of data, and dissemination models;

(3) coordinate the development or designation of standards for research data, the structure of full text and metadata, navigation tools, and other applications to maximize interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(4) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(5) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(6) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including the public, universities, nonprofit and for-profit publishers, libraries, federally funded and non federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research;

(7) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize the benefits of such policies with respect to their potential economic or other impact on the science and engineering enterprise and the stakeholders thereof;

(8) take into consideration the distinction between scholarly publications and digital data;

(9) take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added value that they make; and

(10) examine Federal agency practices and procedures for providing research reports to the agencies charged with locating and preserving unclassified research.

(c) PATENT OR COPYRIGHT LAW.—Nothing in this section shall be construed to undermine any right under the provisions of title 17 or 35, United States Code.

(d) APPLICATION WITH EXISTING LAW.—Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access.

(e) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit a report to Congress describing—

(1) the specific objectives and public interest identified under (b)(1);

(2) any priorities established under subsection (b)(7);

(3) the impact the policies described under (a) have had on the science and engineering enterprise and the stakeholders, including the financial impact on research budgets;

(4) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(5) how any policies developed or being developed by Federal science agencies, as described in subsection (a), incorporate input from the non-Federal stakeholders described in subsection (b)(6).

(f) FEDERAL SCIENCE AGENCY DEFINED.—For the purposes of this section, the term ''Federal science agency'' means any Federal agency with an annual extramural research expenditure of over $100,000,000.

SEC. 104. FEDERAL SCIENTIFIC COLLECTIONS.

(a) MANAGEMENT OF SCIENTIFIC COLLECTIONS.—The Office of Science and Technology Policy shall develop policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise. In developing those policies the Office of Science and Technology Policy shall consult, as appropriate, with—

(1) Federal agencies with such collections; and

(2) representatives of other organizations, institutions, and other entities not a part of the Federal Government that have a stake in the preservation, maintenance, and accessibility of such collections, including State and local government agencies, institutions of higher education, museums, and other entities engaged in the acquisition, holding, management, or use of scientific collections.

(b) CLEARINGHOUSE.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(c) DISPOSAL OF COLLECTIONS.—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection's value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(d) COST PROJECTIONS.—The Office of Science and Technology Policy, in consultation with

relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

(e) SCIENTIFIC COLLECTION DEFINED.—In this section, the term ''scientific collection'' means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance, and, as appropriate and feasible, the associated specimen data and materials.

SEC. 105. PRIZE COMPETITIONS.

(a) IN GENERAL.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following:

''SEC. 24. PRIZE COMPETITIONS.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means a Federal agency.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Science and Technology Policy.

''(3) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given under section 4, except that term shall not include any agency of the legislative branch of the Federal Government.

''(4) HEAD OF AN AGENCY.—The term 'head of an agency' means the head of a Federal agency.

''(b) IN GENERAL.—Each head of an agency, or the heads of multiple agencies in cooperation, may carry out a program to award prizes competitively to stimulate innovation that has the potential to advance the mission of the respective agency.

''(c) PRIZES.—For purposes of this section, a prize may be one or more of the following:

''(1) A point solution prize that rewards and spurs the development of solutions for a particular, well-defined problem.

''(2) An exposition prize that helps identify and promote a broad range of ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties.

''(3) Participation prizes that create value during and after the competition by encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and after the competition.

''(4) Such other types of prizes as each head of an agency considers appropriate to stimulate innovation that has the potential to advance the mission of the respective agency.

''(d) TOPICS.—In selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

''(e) ADVERTISING.—The head of an agency shall widely advertise each prize competition to encourage broad participation.

''(f) REQUIREMENTS AND REGISTRATION.—For each prize competition, the head of an agency shall publish a notice in the Federal Register announcing—

''(1) the subject of the competition;

''(2) the rules for being eligible to participate in the competition;

''(3) the process for participants to register for the competition;

''(4) the amount of the prize; and

''(5) the basis on which a winner will be selected.

''(g) ELIGIBILITY.—To be eligible to win a prize under this section, an individual or entity—

''(1) shall have registered to participate in the competition under any rules promulgated by the head of an agency under subsection (f);

''(2) shall have complied with all the requirements under this section;

''(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

''(4) may not be a Federal entity or Federal employee acting within the scope of their employment.

''(h) CONSULTATION WITH FEDERAL EMPLOYEES.—An individual or entity shall not be deemed ineligible under subsection (g) because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

''(i) LIABILITY.—

''(1) IN GENERAL.—

''(A) DEFINITION.—In this paragraph, the term 'related entity' means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

''(B) LIABILITY.—Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

''(2) INSURANCE.—Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by—

''(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

''(B) the Federal Government for damage or loss to Government property resulting from such an activity.

''(3) EXCEPTION.—The head of an agency may not require a participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential business information of the participant.

''(j) INTELLECTUAL PROPERTY.—

''(1) PROHIBITION ON THE GOVERNMENT ACQUIRING INTELLECTUAL PROPERTY RIGHTS.—The Federal Government may not gain an interest in intellectual property developed by a participant in a competition without the written consent of the participant.

''(2) LICENSES.—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a competition.

''(k) JUDGES.—

''(1) IN GENERAL.—For each competition, the head of an agency, either directly or through an agreement under subsection (l), shall appoint one or more qualified judges to select the winner or winners of the prize competition on the basis described under subsection (f). Judges for each competition may include individuals from outside the agency, including from the private sector.

''(2) RESTRICTIONS.—A judge may not—

''(A) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

''(B) have a familial or financial relationship with an individual who is a registered participant.

''(3) GUIDELINES.—The heads of agencies who carry out competitions under this section shall develop guidelines to ensure that the judges appointed for such competitions are fairly balanced and operate in a transparent manner.

''(4) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions under this section.

''(l) ADMINISTERING THE COMPETITION.—The head of an agency may enter into an agreement with a private, nonprofit entity to administer a prize competition, subject to the provisions of this section.

''(m) FUNDING.—

''(1) IN GENERAL.—Support for a prize competition under this section, including financial support for the design and administration of a prize or funds for a monetary prize purse, may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The head of an agency may accept funds from other Federal agencies to support such competitions. The head of an agency may not give any special consideration to any private sector entity in return for a donation.

''(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

''(3) AMOUNT OF PRIZE.—

''(A) ANNOUNCEMENT.—No prize may be announced under subsection (f) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

''(B) INCREASE IN AMOUNT.—The head of an agency may increase the amount of a prize after an initial announcement is made under subsection (f) only if—

''(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

''(4) LIMITATION ON AMOUNT.—

''(A) NOTICE TO CONGRESS.—No prize competition under this section may offer a prize in an amount greater than $50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

''(B) APPROVAL OF HEAD OF AGENCY.—No prize competition under this section may result in the award of more than $1,000,000 in cash prizes without the approval of the head of an agency.

''(n) GENERAL SERVICE ADMINISTRATION ASSISTANCE.—Not later than 180 days after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the General Services Administration shall provide government wide services to share best practices and assist agencies in developing guidelines for issuing prize competitions. The General Services Administration shall develop a contract vehicle to provide agencies access to relevant products and services, including technical assistance in structuring and conducting prize competitions to take maximum benefit of the marketplace as they identify and pursue prize competitions to further the policy objectives of the Federal Government.

''(o) COMPLIANCE WITH EXISTING LAW.—

''(1) IN GENERAL.— The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and nonproliferation laws, and related regulations.

''(2) OTHER PRIZE AUTHORITY.—Nothing in this section affects the prize authority authorized by any other provision of law.

''(p) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than March 1 of each year, the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (b).

''(2) INFORMATION INCLUDED.—The report for a fiscal year under this subsection shall include, for each prize competition under subsection (b), the following:

''(A) PROPOSED GOALS.—A description of the proposed goals of each prize competition.

''(B) PREFERABLE METHOD.—An analysis of why the utilization of the authority in subsection (b) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

''(C) AMOUNT OF CASH PRIZES.—The total amount of cash prizes awarded for each prize competition, including a description of amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

''(D) SOLICITATIONS AND EVALUATION OF SUBMISSIONS.—The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

''(E) RESOURCES.—A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

''(F) RESULTS.—A description of how each prize competition advanced the mission of the agency concerned.''.

(b) REPEAL OF SPACE ACT LIMITATION.—Section 314(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459f–1 is amended by striking ''The Administration may carry out a program to award prizes only in conformity with this section.''.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 201. NASA'S CONTRIBUTION TO INNOVATION AND COMPETITIVENESS.

It is the sense of Congress that a renewed emphasis on technology development would enhance current mission capabilities and enable future missions, while encouraging NASA, private industry, and academia to spur innovation. NASA's Innovative Partnership Program is a valuable mechanism to accelerate technology maturation and encourage the transfer of technology into the private sector.

SEC. 202. NASA'S CONTRIBUTION TO EDUCATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that NASA is uniquely positioned to interest students in science, technology, engineering, and mathematics, not only by the example it sets, but through its education programs.

(b) EDUCATIONAL PROGRAM GOALS.—NASA shall develop and maintain educational programs—

(1) to carry out and support research based programs and activities designed to increase student interest and participation in STEM, including students from minority and underrepresented groups;

(2) to improve public literacy in STEM;

(3) that employ proven strategies and methods for improving student learning and teaching in STEM;

(4) to provide curriculum support materials and other resources that—

(A) are designed to be integrated with comprehensive STEM education;

(B) are aligned with national science education standards;

(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

(5) to create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improve the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.

SEC. 203. ASSESSMENT OF IMPEDIMENTS TO SPACE SCIENCE AND ENGINEERING WORKFORCE DEVELOPMENT FOR MINORITY AND UNDERREPRESENTED GROUPS AT NASA.

(a) ASSESSMENT.—The Administrator shall enter into an arrangement for an independent assessment of any impediments to space science and engineering workforce development for minority and underrepresented groups at NASA, including recommendations on—

(1) measures to address such impediments;

(2) opportunities for augmenting the impact of space science and engineering workforce development activities and for expanding proven, effective programs; and

(3) best practices and lessons learned, as identified through the assessment, to help maximize the effectiveness of existing and future programs to increase the participation of minority and underrepresented groups in the space science and engineering workforce at NASA.

(b) REPORT.—A report on the assessment carried out under subsection (a) shall be transmitted to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation not later than 15 months after the date of enactment of this Act.

(c) IMPLEMENTATION.—To the extent practicable, the Administrator shall take all necessary steps to address any impediments identified in the assessment.

SEC. 204. INTERNATIONAL SPACE STATION'S CONTRIBUTION TO NATIONAL COMPETITIVENESS ENHANCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the International Space Station represents a valuable and unique national asset which can be utilized to increase educational opportunities and scientific and technological innovation which will enhance the Nation's economic security and competitiveness in the global technology fields of endeavor. If the period for active utilization of the International Space Station is extended to at least the year 2020, the potential for such opportunities and innovation would be increased. Efforts should be made to fully realize that potential.

(b) EVALUATION AND ASSESSMENT OF NASA'S INTERAGENCY CONTRIBUTION.—Pursuant to the authority provided in title II of the America COMPETES Act (Public Law 110–69), the Administrator shall evaluate and, where possible, expand efforts to maximize NASA's contribution to interagency efforts to enhance science, technology, engineering, and mathematics education capabilities, and to enhance the Nation's technological excellence and global competitiveness. The Administrator shall identify these enhancements in the annual reports required by section 2001(e) of that Act (42 U.S.C. 16611a(e)).

(c) REPORT TO THE CONGRESS.—Within 120 days after the date of enactment of this Act, the Administrator shall provide to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation a report on the assessment made pursuant to subsection (a). The report shall include—

(1) a description of current and potential activities associated with utilization of the International Space Station which are supportive of the goals of educational excellence and innovation and competitive enhancement established or reaffirmed by this Act, including a summary of the goals supported, the number of individuals or organizations participating in or benefiting from such activities, and a summary of how such activities might be expanded or improved upon;

(2) a description of government and private partnerships which are, or may be, established to effectively utilize the capabilities represented by the International Space Station to enhance United States competitiveness, innovation and science, technology, engineering, and mathematics education; and

(3) a summary of proposed actions or activities to be undertaken to ensure the maximum utilization of the International Space Station to contribute to fulfillment of the goals and objectives of this Act, and the identification of any additional authority, assets, or funding that would be required to support such activities.

SEC. 205. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

(a) IN GENERAL.—Section 1003 of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18421) is amended to read as follows:

''SEC. 1003. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

''A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, the Administrator shall carry out a study to—

''(1) identify the benefits of and lessons learned from ongoing and previous NASA orbital student programs including, at a minimum, the Get Away Special (GAS) and Earth Knowledge Acquired by Middle School Students (EarthKAM) programs, on science, technology, engineering, and mathematics education;

''(2) assess the potential impacts on science, technology, engineering, and mathematics education of a program that would facilitate the development of scientific and educational payloads involving United States students and educators and the flights of those payloads on commercially available orbital platforms, when available and operational, with the goal of providing frequent and regular payload launches;

''(3) identify NASA expertise, such as NASA science, engineering, payload development, and payload operations, that could be made available to facilitate a science, technology, engineering, and mathematics program using commercial orbital platforms; and

''(4) identify the issues that would need to be addressed before NASA could properly assess the merits and feasibility of the program described in paragraph (2).''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 12, 2010.

SEC. 206. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of NASA.

(2) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 301. OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.

Section 4001 of the America COMPETES Act (33 U.S.C. 893) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Administrator''; and

(2) by adding at the end the following:

''(b) OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.—The Administrator shall implement programs and activities—

''(1) to identify emerging and innovative research and development priorities to enhance United States competitiveness, support development of new economic opportunities based on NOAA research, observations, monitoring modeling, and predictions that sustain ecosystem services;

''(2) to promote United States leadership in oceanic and atmospheric science and competitiveness in the applied uses of such knowledge, including for the development and expansion of economic opportunities; and

''(3) to advance ocean, coastal, Great Lakes, and atmospheric research and development, including potentially transformational research, in collaboration with other relevant Federal agencies, academic institutions, the private sector, and nongovernmental programs, consistent with NOAA's mission to understand, observe, and model the Earth's atmosphere and biosphere, including the oceans, in an integrated manner.

''(c) REPORT.—No later than 12 months after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Administrator, in consultation with the National Science Foundation or other such agencies with mature transformational research portfolios, shall develop and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that describes NOAA's strategy for enhancing transformational research in its research and development portfolio to increase United States competitiveness in oceanic and atmospheric science and technology. The report shall—

''(1) define 'transformational research';

''(2) identify emerging and innovative areas of research and development where transformational research has the potential to make significant and revolutionary –advancements in both understanding and U.S. science leadership;

''(3) describe how transformational research priorities are identified and appropriately –balanced in the context of NOAA's broader research portfolio;

''(4) describe NOAA's plan for developing a competitive peer review and priority-setting –process, funding mechanisms, performance and evaluation measures, and transition-to-operation guidelines for transformational research; and

''(5) describe partnerships with other agencies involved in transformational research.''.

SEC. 302. OCEANIC AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

Section 4002 of the America COMPETES Act (33 U.S.C. 893a) is amended—

(1) by striking ''the agency.'' in subsection (a) and inserting ''agency, with consideration given to the goal of promoting the participation of individuals from underrepresented groups in STEM fields and in promoting the acquisition and retention of highly qualified and motivated young scientists to complement and supplement workforce needs.'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

''(b) EDUCATIONAL PROGRAM GOALS.—The education programs developed by NOAA shall, to the extent applicable—

''(1) carry out and support research based programs and activities designed to increase student interest and participation in STEM;

''(2) improve public literacy in STEM;

''(3) employ proven strategies and methods for improving student learning and teaching in STEM;

''(4) provide curriculum support materials and other resources that—

''(A) are designed to be integrated with comprehensive STEM education;

''(B) are aligned with national science education standards; and

''(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

''(5) create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improves the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.'';

(4) by striking ''develop'' in subsection (c), as redesignated, and inserting ''maintain''; and

(5) by adding at the end thereof the following:

''(e) STEM DEFINED.—In this section, the term 'STEM' means the academic and professional disciplines of science, technology, engineering, and mathematics.''.

SEC. 303. WORKFORCE STUDY.

(a) IN GENERAL.—The Secretary of Commerce, in cooperation with the Secretary of Education, shall request the National Academy of Sciences to conduct a study on the scientific workforce in the areas of oceanic and atmospheric research and development. The study shall investigate—

(1) whether there is a shortage in the number of individuals with advanced degrees in oceanic and atmospheric sciences who have the ability to conduct high quality scientific research in physical and chemical oceanography, meteorology, and atmospheric modeling, and related fields, for government, nonprofit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees;

(3) barriers to transitioning highly qualified oceanic and atmospheric scientists into Federal civil service scientist career tracks;

(4) what institutions of higher education, the private sector, and the Congress could do to increase the number of individuals with such post baccalaureate degrees;

(5) the impact of an aging Federal scientist workforce on the ability of Federal agencies to conduct high quality scientific research; and

(6) what actions the Federal government can take to assist the transition of highly qualified scientists into Federal career scientist positions and ensure that the experiences of retiring Federal scientists are adequately documented and transferred prior to retirement from Federal service.

(b) COORDINATION.—The Secretary of Commerce and the Secretary of Education shall consult with the heads of other Federal agencies and departments with oceanic and atmospheric expertise or authority in preparing the specifications for the study.

(c) REPORT.—No later than 18 months after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Education shall transmit a joint report to each committee of Congress with jurisdiction over the programs described in 4002(b) of the America COMPETES Act (33 U.S.C. 893a(b)), as amended by section 302 of this Act, detailing the findings and recommendations of the study and setting forth a prioritized plan to implement the recommendations.

(d) PROGRAM AND PLAN.—The Administrator of the National Oceanic and Atmospheric Administration shall evaluate the National Academy of Sciences study and develop a workforce program and plan to institutionalize the Administration's Federal science career pathways and address aging workforce issues. The program and plan shall be developed in consultation with the Administration's cooperative institutes and other academic partners to identify and implement programs and mechanisms to ensure that—

(1) sufficient highly qualified scientists are able to transition into Federal career scientist positions in the Administration's laboratories and programs; and

(2) the technical and management experiences of senior employees are documented and transferred before leaving Federal service.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 401. SHORT TITLE.

This title may be cited as the ''National Institute of Standards and Technology Authorization Act of 2010''.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2011.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $918,900,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $584,500,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $124,800,000 shall be authorized for the construction and maintenance of facilities; and

(C) $209,600,000 shall be authorized for industrial technology services activities, of which—

(i) $141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(b) FISCAL YEAR 2012.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $970,800,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $661,100,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $84,900,000 shall be authorized for the construction and maintenance of facilities; and

(C) $224,800,000 shall be authorized for industrial technology services activities, of which—

(i) $155,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(c) FISCAL YEAR 2013.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $1,039,709,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $676,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $121,300,000 shall be authorized for the construction and maintenance of facilities; and

(C) $241,709,000 shall be authorized for industrial technology services activities, of which—

(i) $165,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

(a) ESTABLISHMENT.—The National Institute of Standards and Technology Act is amended by inserting after section 3 the following:

"SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

''(a) ESTABLISHMENT.—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the 'Under Secretary').

''(b) APPOINTMENT.—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

''(c) COMPENSATION.—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(d) DUTIES.—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

''(e) APPLICABILITY.—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5, UNITED STATES CODE.—

(A) LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting before the item ''Associate Attorney General'' the following:

''Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.''.

(B) LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Director, National Institute of Standards and Technology, Department of Commerce.''.

(2) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

SEC. 404. MANUFACTURING EXTENSION PARTNERSHIP.

(a) COMMUNITY COLLEGE SUPPORT.—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (4);

(2) by striking ''Institute.'' in paragraph (5) and inserting ''Institute; and''; and

(3) by adding at the end the following:

''(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.''.

(b) INNOVATIVE SERVICES INITIATIVE.—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

''(g) INNOVATIVE SERVICES INITIATIVE.—

''(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

''(A) reducing their energy usage, greenhouse gas emissions, and environmental waste to improve profitability;

''(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy and energy efficiency systems; and

''(C) identification of and diversification to new markets, including support for transitioning to the production of components for renewable energy and energy efficiency systems.

''(2) MARKET DEMAND.—The Director may not undertake any activity to accelerate the domestic commercialization of a new product technology under this subsection unless an analysis of market demand for the new product technology has been conducted.''.

(c) REPORTS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (b), is further amended by adding at the end the following:

''(h) REPORTS.—

''(1) IN GENERAL.—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director's governance of the program established under this section.

''(2) CRITERIA.—In conducting the assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).''.

(d) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

''(7) Not later than 90 days after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Comptroller General shall submit to Congress a report on the cost share requirements under the program. The report shall—

''(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment, and the effect of such cost share structures on individual Centers and the overall program; and

''(B) include recommendations for how best to structure the cost share requirement to provide for the long-term sustainability of the program.''.

''(8) If consistent with the recommendations in the report transmitted to Congress under paragraph (7), the Secretary shall alter the cost structure requirements specified under paragraph (3)(B) and (5) provided that the modification does not increase the cost share structure in place before the date of enactment of the America COMPETES Reauthorization Act of 2010, or allow the Secretary to provide a Center more than 50 percent of the costs incurred by that Center.''.

(e) ADVISORY BOARD.—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

''(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

''(A) IN GENERAL.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

''(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.'.

(f) DESIGNATION OF PROGRAM.—

(1) IN GENERAL.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), as amended by subsection (c), is further amended by adding at the end the following:

''(i) DESIGNATION.—

''(1) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.—The program under this section shall be known as the 'Hollings Manufacturing Extension Partnership'.

''(2) HOLLINGS MANUFACTURING EXTENSION CENTERS.—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the 'Hollings Manufacturing Extension Centers' (in this Act referred to as the 'Centers').''.

(2) CONFORMING AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.—Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading ''INDUSTRIAL TECHNOLOGY SERVICES'' by striking ''2007: Provided further, That'' and all that follows through ''Extension Centers.'' and inserting ''2007.''.

(3) TECHNICAL AMENDMENTS.—

(A) Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended in the matter preceding paragraph (1) by striking ''Regional Centers for the Transfer of Manufacturing Technology'' and inserting ''regional centers for the transfer of manufacturing technology''.

(B) Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (f), is further amended by adding at the end the following:

''(j) COMMUNITY COLLEGE DEFINED.—In this section, the term 'community college' means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate's degree.''.

(h) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (g), is further amended by adding at the end the following:

''(k) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

''(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

''(2) implement a comprehensive plan to train the Centers to address such obstacles; and

''(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.''.

(i) NIST ACT AMENDMENT.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended by striking ''Director of the Centers program,'' and inserting ''Director of the Hollings MEP program,''.

SEC. 405. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) ACTIVITIES.—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies;

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies; and

(3) incorporate and build upon existing reports and studies on improving emergency communications.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1) and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by the assessment.

SEC. 406. BROADENING PARTICIPATION.

(a) RESEARCH FELLOWSHIPS.—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1) is amended by adding at the end the following:

''(c) UNDERREPRESENTED MINORITIES.—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.''.

(b) POSTDOCTORAL FELLOWSHIP PROGRAM.—Section 19 of such Act (15 U.S.C. 278g–2) is amended by adding at the end the following:

''In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.''.

(c) TEACHER DEVELOPMENT.—Section 19A(c) of such Act (15 U.S.C. 278g–2a(c)) is amended by adding at the end the following: ''The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).''.

SEC. 407. NIST FELLOWSHIPS.

(a) POST-DOCTORAL FELLOWSHIP PROGRAM.—Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–2) is amended by striking '', in conjunction with the National Academy of Sciences,''.

(b) RESEARCH FELLOWSHIPS.—Section 18(a) of that Act (15 USC 278g–1(a)) is amended by striking ''up to 1.5 percent of the''.

(c) COMMERCE, SCIENCE, AND TECHNOLOGY FELLOWSHIP PROGRAM.—Section 5163(d) of the Omnibus Trade and Competition Act of 1988 (15 U.S.C. 1533) is repealed.

SEC. 408. GREEN MANUFACTURING AND CONSTRUCTION.

The Director shall carry out a green manufacturing and construction initiative—

(1) to develop accurate sustainability metrics and practices for use in manufacturing;

(2) to advance the development of standards, including high performance green building standards, and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) to move buildings toward becoming high performance green buildings, including improving energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

SEC. 409. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Institute of Standards and Technology.

(2) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703).

(3) HIGH PERFORMANCE GREEN BUILDING.—The term ''high performance green building'' has the meaning given that term by section 401(13) of the Energy Independence and Security Act of 2009 (42 U.S.C. 17061(13)).

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS

SUBTITLE A—NATIONAL SCIENCE FOUNDATION

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''National Science Foundation Authorization Act of 2010''.

SEC. 502. DEFINITIONS.

In this subtitle:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(2) EPSCoR.—The term ''EPSCoR'' means the Experimental Program to Stimulate Competitive Research.

(3) FOUNDATION.—The term ''Foundation'' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) STATE.—The term ''State'' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(6) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2011.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,424,400,000 for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $5,974,782,000 shall be made available to carry research and related activities;

(B) $937,850,000 shall be made available for education and human resources;

(C) $164,744,000 shall be made available for major research equipment and facilities construction;

(D) $327,503,000 shall be made available for agency operations and award management;

(E) $4,803,000 shall be made available for the Office of the National Science Board; and

(F) $14,718,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2012.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,800,000,000 for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $6,234,281,000 shall be made available to carry research and related activities;

(B) $978,959,000 shall be made available for education and human resources;

(C) $225,544,000 shall be made available for major research equipment and facilities construction;

(D) $341,676,000 shall be made available for agency operations and award management;

(E) $4,808,000 shall be made available for the Office of the National Science Board; and

(F) $14,732,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2013.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $8,300,000,000 for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $6,637,849,000 shall be made available to carry research and related activities;

(B) $1,041,762,000 shall be made available for education and human resources;

(C) $236,764,000 shall be made available for major research equipment and facilities construction;

(D) $363,670,000 shall be made available for agency operations and award management;

(E) $4,906,000 shall be made available for the Office of the National Science Board; and

(F) $15,049,000 shall be made available for the Office of Inspector General.

SEC. 504. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.

(a) STAFFING AT THE NATIONAL SCIENCE BOARD.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking ''not more than 5''.

(b) NATIONAL SCIENCE BOARD REPORTS.—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting ''within the authority of the Foundation (or otherwise as requested by the Congress or the President)'' after ''individual policy matters''.

(c) BOARD ADHERENCE TO SUNSHINE ACT.—Section 15(a)(2) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–5(a)(2)) is amended—

(1) by striking ''The Board'' and inserting ''To ensure transparency of the Board's entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board''; and

(2) by adding at the end the following: ''The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present.''.

SEC. 505. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.

(a) ESTABLISHMENT.—There is established within the Foundation a National Center for Science and Engineering Statistics that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) DUTIES.—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) STATISTICAL REPORTS.—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

SEC. 506. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.

(a) MANUFACTURING RESEARCH.—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

(1) nanomanufacturing;

(2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;

(3) manufacturing enterprise systems;

(4) advanced sensing and control techniques;

(5) materials processing; and

(6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) MANUFACTURING EDUCATION.—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

SEC. 507. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.

(a) MID-SCALE RESEARCH INSTRUMENTATION NEEDS.—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

(1) the findings from the Board's evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;

(2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting mid-scale research instrumentation at the Foundation.

SEC. 508. PARTNERSHIPS FOR INNOVATION.

(a) IN GENERAL.—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) PARTNERSHIPS.—

(1) IN GENERAL.—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and nonprofit organizations.

(2) PRIORITY.—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) PROGRAM.—Proposals funded under this section shall seek—

(1) to increase the impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) to increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) to enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) to strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) to broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) to build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) ADDITIONAL CRITERIA.—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) LIMITATION.—No funds provided under this section may be used to construct or renovate a building or structure.

SEC. 509. SUSTAINABLE CHEMISTRY BASIC RESEARCH.

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

SEC. 510. GRADUATE STUDENT SUPPORT.

(a) FINDING.—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) EQUAL TREATMENT OF IGERT AND GRF.—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.—For each of the fiscal years 2011 through 2013, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Foundation is authorized''; and

(2) by adding at the end the following:

''(b) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of $12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.''.

SEC. 511. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) MATCHING REQUIREMENT.—Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1a(h)(1)) is amended to read as follows:

''(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

''(A) in the case of grants in an amount of less than $1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

''(B) in the case of grants in an amount of $1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.''.

(b) RETIRING STEM PROFESSIONALS.—Section 10A(a)(2)(A) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1a(a)(2)(A)) is amended by inserting ''including retiring professionals in those fields,'' after ''mathematics professionals,''.

SEC. 512 UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.

The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, the Tribal Colleges and Universities Program, and Hispanic-serving institutions as separate programs.

SEC. 513. RESEARCH EXPERIENCES FOR HIGH SCHOOL STUDENTS.

The Director shall permit specialized STEM high schools conducting research to participate in major data collection initiatives from universities, corporations, or government labs under a research grant from the Foundation, as part of the research proposal.

SEC. 514. RESEARCH EXPERIENCES FOR UNDERGRADUATES.

(a) RESEARCH SITES.—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM

fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.—The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

SEC. 515. STEM INDUSTRY INTERNSHIP PROGRAMS.

(a) IN GENERAL.—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. The partnerships may also include industry or professional associations.

(b) INTERNSHIP PROGRAM.—The grants awarded under section (a) may include internship programs in the manufacturing sector.

(c) USE OF GRANT FUNDS.—Grants under this section may be used—

(1) to develop and implement hands-on learning opportunities;

(2) to develop curricula and instructional materials related to industry, including the manufacturing sector;

(3) to perform outreach to secondary schools;

(4) to develop mentorship programs for students with partner organizations; and

(5) to conduct activities to support awareness of career opportunities and skill requirements.

(d) PRIORITY.—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities and Regional Centers for the Transfer of Manufacturing Technology established by section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) in developing academic courses designed to provide students with the skills or certifications necessary for employment in local or regional companies.

(c) OUTREACH TO RURAL COMMUNITIES.—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(d) COST-SHARE.—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(e) RESTRICTION.—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships unless private sector entities match 75 percent of such funding; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(f) REPORT.—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

SEC. 516. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness, and use technology to enhance or supplement laboratory based learning.

SEC. 517. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) FINDINGS.—The Congress finds that—

(1) The National Science Foundation Act of 1950 stated, ''it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education,'';

(2) National Science Foundation funding remains highly concentrated, with 27 States and 2 jurisdictions, taken together, receiving only about 10 percent of all NSF research funding; each of these States received only a fraction of one percent of Foundation's research dollars each year;

(3) the Nation requires the talent, expertise, and research capabilities of all States in order to prepare sufficient numbers of scientists and engineers, remain globally competitive and support economic development.

(b) CONTINUATION OF PROGRAM.—The Director shall continue to carry out EPSCoR, with the objective of helping the eligible States to develop the research infrastructure that will make them more competitive for Foundation and other Federal research funding. The program shall continue to increase as the National Science Foundation funding increases.

(c) CONGRESSIONAL REPORTS.—The Director shall report to the appropriate committees of Congress on an annual basis, using the most recent available data—

(1) the total amount made available, by State, under EPSCoR;

(2) the amount of co-funding made available to EPSCoR States;

(3) the total amount of National Science Foundation funding made available to all institutions and entities within EPSCoR States; and

(4) efforts and accomplishments to more fully integrate the 29 EPSCoR jurisdictions in major activities and initiatives of the Foundation.

(d) COORDINATION OF EPSCOR AND SIMILAR FEDERAL PROGRAMS.—

(1) ANOTHER FINDING.—The Congress finds that a number of Federal agencies have programs, such as Experimental Programs to Stimulate Competitive Research and the National Institutes of Health Institutional Development Award program, designed to increase the capacity for and quality of science and technology research and training at academic institutions in States that historically have received relatively little Federal research and development funding.

(2) COORDINATION REQUIRED.—The EPSCoR Interagency Coordinating Committee, chaired by the National Science Foundation, shall—

(A) coordinate EPSCoR and Federal EPSCoR-like programs to maximize the impact of Federal support for building competitive research infrastructure, and in order to achieve an integrated Federal effort;

(B) coordinate agency objectives with State and institutional goals, to obtain continued non-Federal support of science and technology research and training;

(C) develop metrics to assess gains in academic research quality and competitiveness, and in science and technology human resource development;

(D) conduct a cross-agency evaluation of EPSCoR and other Federal EPSCoR-like programs and accomplishments, including management, investment, and metric-measuring strategies implemented by the different agencies aimed to increase the number of new investigators receiving peer-reviewed funding, broaden participation, and empower knowledge generation, dissemination, application, and national research and development competitiveness;

(E) coordinate the development and implementation of new, novel workshops, outreach activities, and follow-up mentoring activities among EPSCoR or EPSCoR-like programs for colleges and universities in EPSCoR States and territories in order to increase the number of proposals submitted and successfully funded and to enhance statewide coordination of EPSCoR and Federal EPSCoR-like programs;

(F) coordinate the development of new, innovative solicitations and programs to facilitate collaborations, partnerships, and mentoring activities among faculty at all levels in non-EPSCoR and EPSCoR States and jurisdictions;

(G) conduct an evaluation of the roles, responsibilities and degree of autonomy that program officers or managers (or the equivalent position) have in executing EPSCoR programs at the different Federal agencies and the impacts these differences have on the number of EPSCoR State and jurisdiction faculty participating in the peer review process and the percentage of successful awards by individual EPSCoR State jurisdiction and individual researcher; and

(H) conduct a survey of colleges and university faculty at all levels regarding their knowledge and understanding of EPSCoR, and their level of interaction with and knowledge about their respective State or Jurisdictional EPSCoR Committee.

(3) MEETINGS AND REPORTS.—The Committee shall meet at least twice each fiscal year and shall submit an annual report to the appropriate committees of Congress describing progress made in carrying out paragraph (2).

(e) FEDERAL AGENCY REPORTS.—Each Federal agency that administers an EPSCoR or Federal EPSCoR-like program shall submit to the OSTP as part of its Federal budget submission—

(1) a description of the program strategy and objectives;

(2) a description of the awards made in the previous year, including—

(A) the percentage of reviewers and number of new reviewers from EPSCoR States;

(B) the percentage of new investigators from EPSCoR States;

(C) the number of programs or large collaborator awards involving a partnership of organizations and institutions from EPSCoR and non-EPSCoR States; and

(3) an analysis of the gains in academic research quality and competitiveness, and in science and technology human resource development, achieved by the program in the last year.

(f) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) IN GENERAL.—The Director shall contract with the National Academy of Sciences to conduct a study on all Federal agencies that administer an Experimental Program to Stimulate Competitive Research or a program similar to the Experimental Program to Stimulate Competitive Research.

(2) MATTERS TO BE ADDRESSED.—The study conducted under paragraph (1) shall include the following:

(A) A delineation of the policies of each Federal agency with respect to the awarding of grants to EPSCoR States.

(B) The effectiveness of each program.

(C) Recommendations for improvements for each agency to achieve EPSCoR goals.

(D) An assessment of the effectiveness of EPSCoR States in using awards to develop science and engineering research and education, and science and engineering infrastructure within their States.

(E) Such other issues that address the effectiveness of EPSCoR as the National Academy of Sciences considers appropriate.

SEC. 518. SENSE OF THE CONGRESS REGARDING THE SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

It is the sense of the Congress that—

(1) the Science, Technology, Engineering, and Mathematics Talent Expansion Program established by the National Science Foundation Authorization Act of 2002 continues to be an effective program to increase the number of students, who are citizens or permanent residents of the United States, receiving associate or baccalaureate degrees in established or emerging fields within science, technology, engineering, and mathematics, and its authorization continues;

(2) the strategies employed continue to strengthen mentoring and tutoring between faculty and students and provide students with information and exposure to potential career pathways in science, technology, engineering, and mathematics areas;

(3) this highly competitive program awarded 145 Program implementation awards and 12 research projects in the first 6 years of operations; and

(4) the Science, Technology, Engineering, and Mathematics Talent Expansion Program should continue to be supported by the National Science Foundation.

SEC. 519. SENSE OF THE CONGRESS REGARDING THE NATIONAL SCIENCE FOUNDATION'S CONTRIBUTIONS TO BASIC RESEARCH AND EDUCATION.

(a) FINDINGS.—The Congress finds that—

(1) the National Science Foundation is an independent Federal agency created by Congress in 1950 to, among other things, promote the progress of science, to advance the national health, prosperity, and welfare, and to secure the national defense;

(2) the Foundation is the funding source for approximately 20 percent of all federally supported basic research conducted by America's colleges and universities, and is the major source of Federal backing for mathematics, computer science and other sciences;

(3) the America COMPETES Act of 2007 helped rejuvenate our focus on increasing basic research investment in the physical sciences, strengthening educational opportunities in the science, technology, engineering, and mathematics fields and developing a robust innovation infrastructure; and

(4) reauthorization of the America COMPETES Act should continue a robust investment in basic research and education and preserve the essence of the original Act by increasing the investment focus on science, technology, engineering, and mathematics basic research and education as a national priority.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the National Science Foundation is the finest scientific foundation in the world, and is a vital agency that must support basic research needed to advance the United States into the 21st century;

(2) the National Science Foundation should focus Federal research and development resources primarily in the areas of science, technology, engineering, and mathematics basic research and education; and

(3) the National Science Foundation should strive to ensure that federally-supported research is of the finest quality, is ground breaking, and answers questions or solves problems that are of utmost importance to society at large.

SEC. 520. ACADEMIC TECHNOLOGY TRANSFER AND COMMERCIALIZATION OF UNIVERSITY RESEARCH.

(a) IN GENERAL.—Any institution of higher education (as such term is defined in section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that receives National Science Foundation research support and has received at least $25,000,000 in total Federal research grants in the most recent fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal record locator for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including—

(1) contact information for individuals and university offices responsible for technology transfer and commercialization;

(2) information for both university researchers and industry on the institution's technology licensing and commercialization strategies;

(3) success stories, statistics, and examples of how the university supports commercialization of research results;

(4) technologies available for licensing by the university where appropriate; and

(5) any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

(b) NSF WEBSITE.—The National Science Foundation shall create and maintain a website accessible to the public that links to each website mentioned under (a).

(c) TRADE SECRET INFORMATION.—Notwithstanding subsection (a), an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

SEC. 521. STUDY TO DEVELOP IMPROVED IMPACT-ON-SOCIETY METRICS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Director of the National Science Foundation shall contract with the National Academy of Sciences to initiate a study to evaluate, develop, or improve metrics for measuring the potential impact-on-society, including—

(1) the potential for commercial applications of research studies funded in whole or in part by grants of financial assistance from the Foundation or other Federal agencies;

(2) the manner in which research conducted at, and individuals graduating from, an institution of higher education contribute to the development of new intellectual property and the success of commercial activities;

(3) the quality of relevant scientific and international publications; and

(4) the ability of such institutions to attract external research funding.

(b) REPORT.—Within 1 year after initiating the study required by subsection (a), the Director shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology setting forth the Director's findings, conclusions, and recommendations.

SEC. 522. NSF GRANTS IN SUPPORT OF SPONSORED POST-DOCTORAL FELLOWSHIP PROGRAMS.

The Director of the National Science Foundation may utilize funds appropriated to carry out grants to institutions of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to provide financial support for post-graduate research in fields with potential commercial applications to match, in whole or in part, any private sector grant of financial assistance to any post-doctoral program in such a field of study.

SEC. 523. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.

It is the sense of Congress that—

(1) the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable;

(2) in particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities; and

(3) for facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

SEC. 524. CLOUD COMPUTING RESEARCH ENHANCEMENT.

(a) RESEARCH FOCUS AREA.—The Director may support a national research agenda in key areas affected by the increased use of public and private cloud computing, including—

(1) new approaches, techniques, technologies, and tools for—

(A) optimizing the effectiveness and efficiency of cloud computing environments; and

(B) mitigating security, identity, privacy, reliability, and manageability risks in cloud-based environments, including as they differ from traditional data centers;

(2) new algorithms and technologies to define, assess, and establish large-scale, trustworthy, cloud-based infrastructures;

(3) models and advanced technologies to measure, assess, report, and understand the performance, reliability, energy consumption, and other characteristics of complex cloud environments; and

(4) advanced security technologies to protect sensitive or proprietary information in global-scale cloud environments.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Director shall initiate a review and assessment of cloud computing research opportunities and challenges, including research areas listed in subsection (a), as well as related issues such as—

(A) the management and assurance of data that are the subject of Federal laws and regulations in cloud computing environments, which laws and regulations exist on the date of enactment of this Act;

(B) misappropriation of cloud services, piracy through cloud technologies, and other threats to the integrity of cloud services;

(C) areas of advanced technology needed to enable trusted communications, processing, and storage; and

(D) other areas of focus determined appropriate by the Director.

(2) UNSOLICITED PROPOSALS.—The Director may accept unsolicited proposals that review and assess the issues described in paragraph (1). The proposals may be judged according to existing criteria of the National Science Foundation.

(c) REPORT.—The Director shall provide an annual report for not less than 5 consecutive years to Congress on the outcomes of National Science Foundation investments in cloud computing research, recommendations for research focus and program improvements, or other related recommendations. The reports, including any interim findings or recommendations, shall be made publicly available on the website of the National Science Foundation.

(d) NIST SUPPORT.—The Director of the National Institute of Standards and Technology shall—

(1) collaborate with industry in the development of standards supporting trusted cloud computing infrastructures, metrics, interoperability, and assurance; and

(2) support standards development with the intent of supporting common goals.

SEC. 525. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.

(a) IN GENERAL.—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) INSTRUMENTATION.—Funding provided under this section may be used for laboratory equipment and materials.

SEC. 526. BROADER IMPACTS REVIEW CRITERION.

(a) GOALS.—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K–12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) POLICY.—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator's proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

SEC. 527. TWENTY-FIRST CENTURY GRADUATE EDUCATION.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K–12 schools, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) PARTNERSHIP.—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) REVIEW OF APPLICATIONS.—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

SEC. 551. PURPOSE.

The purpose of this subtitle is to replicate and implement programs at institutions of higher education that provide integrated courses of study in science, technology, engineering, or mathematics, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, or mathematics with concurrent teacher certification.

SEC. 552. PROGRAM REQUIREMENTS.

The Director shall replicate and implement undergraduate degree programs under this subtitle that—

(1) are designed to recruit and prepare students who pursue a baccalaureate degree in science, technology, engineering, or mathematics to become certified as elementary and secondary teachers;

(2) require the education department (or its equivalent) and the departments or division responsible for preparation of science, technology, engineering, and mathematics majors at an institution of higher education to collaborate in establishing and implementing the program at that institution;

(3) require students participating in the program to enter the program through a field-based course and to continue to complete field-based courses supervised by master teachers throughout the program;

(4) hire sufficient teachers so that the ratio of students to master teachers in the program does not exceed 100 to 1;

(5) include instruction in the use of scientifically-based instructional materials and methods, assessments, pedagogical content knowledge (including the interaction between mathematics and science), the use of instructional technology, and how to incorporate State and local standards into the classroom curriculum;

(6) restrict to students participating in the program those courses that are specifically designed for the needs of teachers of science, technology, engineering, and mathematics; and

(7) require students participating in the program to successfully complete a final evaluation of their teaching proficiency, based on their classroom teaching performance, conducted by multiple trained observers, and a portfolio of their accomplishments.

SEC. 553. GRANT PROGRAM.

(a) IN GENERAL.—The Director shall establish a grant program to support programs at institutions of higher education to carry out the purpose of this subtitle.

(b) GEOGRAPHICAL CONSIDERATIONS.—In the administration of this subtitle, the Director shall take such steps as may be necessary to ensure that grants are equitably distributed across all regions of the United States, taking into account population density and other geographic and demographic considerations.

(c) AMOUNT OF GRANT.—Subject to the requirements of subsection (d), the Director may award grants annually on a competitive basis to institutions of higher education in the amount of $2,000,000, per institution of which—

(1) $1,500,000 shall be used—

(A) to design, implement, and evaluate a program that meets the requirements of section 552;

(B) to employ master teachers at the institution to oversee field experiences;

(C) to provide a stipend to mentor teachers participating in the program; and

(D) to support curriculum development and implementation strategies for science, technology, engineering, and mathematics content courses taught through the program; and

(2) up to $500,000 shall be set aside by the grantee for technical support and evaluation services from the institution whose programs will be replicated.

(d) ELIGIBILITY.—To be eligible to apply for a grant under this section, an institution of higher education shall—

(1) include former secondary school science, technology, engineering, or mathematics master teachers as faculty in its science department for this program;

(2) grant terminal degrees in science, technology, engineering, and mathematics; and

(3) have a process to be used in establishing partnerships with local educational agencies for placement of participating students in their field experiences, including a process for identifying mentor teachers working in local schools to supervise classroom field experiences in cooperation with university-based master teachers;

(4) maintain policies allowing flexible entry to the program throughout the undergraduate coursework;

(5) require that master teachers employed by the institution will supervise field experiences of students in the program;

(6) require that the program complies with State certification or licensing requirements and the requirements under section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) for highly qualified teachers;

(7) develop during the course of the grant a plan for long-term support and assessment of its graduates, which shall include—

(A) induction support for graduates in their first one to two years of teaching;

(B) systems to determine the teaching status of graduates and thereby determine retention rates; and

(C) methods to analyze the achievement of students taught by graduates, and methods to analyze classroom practices of graduates; and

(8) be able upon completion of the grant at the end of 5 years to fund essential program costs, including salaries of master teachers and other necessary personnel, from recurring university budgets.

(e) APPLICATION REQUIREMENTS.—An institution of higher education seeking a grant under the program shall submit an application to the Director in such form, at such time, and containing such information and assurances as the Director may require, including—

(1) a description of the current rate at which individuals majoring in science, technology, engineering, and mathematics become certified as elementary and secondary teachers;

(2) a description for the institution's plan for increasing the numbers of students enrolled in and graduating from the program supported under this subtitle;

(3) a description of the institution's capacity to develop a program in which individuals majoring in science, technology, engineering, and mathematics can become certified as elementary and secondary teachers;

(4) identification of the organizational unit within the department or division of arts and sciences or the science department at the institution that will adopt teacher certification for elementary and secondary teachers as its primary mission;

(5) identification of core faculty within the department or division of arts and sciences or the science department at the institution to champion teacher preparation in their departments by teaching courses dedicated to preparing future elementary and secondary school teachers, helping create new degree plans, advising prospective students within their major, and assisting as needed with program administration;

(6) identification of core faculty in the education department or its equivalent at the institution to champion teacher preparation by creating and teaching courses specific to the preparation of science, technology, engineering, and mathematics and working closely with colleagues in the department or division of arts and sciences or the science department; and

(7) a description of involving practical, field-based experience in teaching and degree plans enabling students to graduate in 4 years with a major in science, technology, engineering, or mathematics and elementary or secondary school teacher certification.

(f) MATCHING REQUIREMENT.—An institution of higher education may not receive a grant under this section unless it provides, from non-federal sources, to carry out the activities supported by the grant, an amount that is not less than—

(1) 35 percent of the amount of the grant for the first fiscal year of the grant;

(2) 55 percent of the amount of the grant for the second and third fiscal years of the grant; and

(3) 75 percent of the amount of the grant for the fourth and fifth fiscal years of the grant.

(g) GUIDANCE.—Within 90 days after the date of enactment of this Act, the Director shall initiate a proceeding to promulgate guidance for the administration of the grant program established under subsection (a).

SEC. 554. GRANT OVERSIGHT AND ADMINISTRATION.

(a) IN GENERAL.—The Director may execute a contract for program oversight and fiscal management with an organization at an institution of higher education, a non-profit organization, or other entity that demonstrates capacity for and experience in—

(1) replicating 1 or more similar programs at regional or national levels;

(2) providing programmatic and technical implementation assistance for the program;

(3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and

(4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

(b) OVERSIGHT RESPONSIBILITIES.—

(1) MANDATORY DUTIES.—If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this subtitle; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

(2) DISCRETIONARY DUTIES.—At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

(c) REPORTS TO CONGRESS.—The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

SEC. 555. DEFINITIONS.

In this subtitle:

(1) FIELD-BASED COURSE.—The term ''field-based course'' means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) MASTER TEACHER.—The term ''master teacher'' means an individual—

(A) who has been awarded a master's or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K–12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

(4) MENTOR TEACHER.—The term ''mentor teacher'' means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

(5) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out this subtitle $10,000,000 for each of fiscal years 2011 through 2013.

TITLE VI—INNOVATION

SEC. 601. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 106 of this Act, is amended by adding at the end the following:

''SEC. 25. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

''(a) IN GENERAL.—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

''(b) DUTIES.—The Office of Innovation and Entrepreneurship shall be responsible for—

''(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

''(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers, particularly in States participating in the Experimental Program to Stimulate Competitive Research;

''(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

''(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and rural communities, within the Department of Commerce, between the Department of Commerce and other Federal agencies, and between the Department of Commerce and appropriate State government agencies and institutions, as appropriate; and

''(5) any other duties as determined by the Secretary.

''(c) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).''.

SEC. 602. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 601, is further amended by adding at the end the following:

"SEC. 26. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

''(b) ELIGIBLE PROJECTS.—A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

''(1) to use an innovative technology or an innovative process in manufacturing;

''(2) to manufacture an innovative technology product or an integral component of such a product; or

''(3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

''(c) ELIGIBLE BORROWER.—A loan guarantee may be made under the program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (l).

''(d) LIMITATION ON AMOUNT.—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

''(e) LIMITATIONS ON LOAN GUARANTEE.—No loan guarantee shall be made unless the Secretary determines that—

''(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

''(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

''(3) the obligation is not subordinate to other financing;

''(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

''(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

''(A) 30 years; or

''(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

''(f) DEFAULTS.—

''(1) PAYMENT BY SECRETARY.—

''(A) IN GENERAL.—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

''(B) PAYMENT REQUIRED.—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

''(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

''(2) SUBROGATION.—

''(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

''(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

''(ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

''(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

''(3) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

''(g) TERMS AND CONDITIONS.—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

''(1) to protect the interests of the United States in the case of default; and

''(2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

''(h) CONSULTATION.—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

''(i) FEES.—

''(1) IN GENERAL.—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into the Treasury of the United States; and

''(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

''(3) LIMITATION.—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

''(j) RECORDS.—

''(1) IN GENERAL.—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

''(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

''(k) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

''(l) REGULATIONS.—The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

''(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

''(A) whether a borrower is a small- or medium-sized manufacturer; and

''(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

''(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

''(3) policies and procedures for selecting and monitoring lenders and loan performance; and

''(4) any other policies, procedures, or information necessary to implement this section.

''(m) AUDIT.—

''(1) ANNUAL INDEPENDENT AUDITS.—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

''(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

''(3) REPORT.—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(n) REPORT TO CONGRESS.—Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

''(o) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

''(p) MEP CENTERS.—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

''(q) MINIMIZING RISK.—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A–129, entitled 'Policies for Federal Credit Programs and Non-Tax Receivables', as in effect on the date of enactment of the America COMPETES Reauthorization Act of 2010.

''(r) SENSE OF CONGRESS.—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

''(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

''(2) all persons assigned by the borrower to perform work within the United States on the project.

''(s) DEFINITIONS.—In this section:

''(1) COST.—The term 'cost' has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

''(2) INNOVATIVE PROCESS.—The term 'innovative process' means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

''(3) INNOVATIVE TECHNOLOGY.—The term 'innovative technology' means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

''(4) LOAN GUARANTEE.—The term 'loan guarantee' has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

''(5) OBLIGATION.—The term 'obligation' means the loan or other debt obligation that is guaranteed under this section.

''(6) PROGRAM.—The term 'program' means the loan guarantee program established in subsection (a).

''(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.''.

SEC. 603. REGIONAL INNOVATION PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 602, is further amended by adding at the end thereof the following:

"SEC. 27. REGIONAL INNOVATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks.

'(b) CLUSTER GRANTS.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

''(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

''(A) Feasibility studies.

''(B) Planning activities.

''(C) Technical assistance.

''(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

''(E) Attracting additional participants to a regional innovation cluster.

''(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

''(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

''(H) Interacting with the public and State and local governments to meet the goals of the cluster.

''(3) ELIGIBLE RECIPIENT DEFINED.—In this subsection, the term 'eligible recipient' means—

''(A) a State;

''(B) an Indian tribe;

''(C) a city or other political subdivision of a State;

''(D) an entity that—

''(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

''(ii) has an application that is supported by a State or a political subdivision of a State; or

''(E) a consortium of any of the entities described in subparagraphs (A) through (D).

''(4) APPLICATION.—

''(A) IN GENERAL.—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(B) COMPONENTS.—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

''(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

''(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

''(iii) the extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development;

''(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

''(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

''(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

''(C) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

''(5) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

''(6) COST SHARE.—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

''(7) USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

''(c) SCIENCE AND RESEARCH PARK DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants for the development of feasibility studies and plans for the construction of new science parks or the renovation or expansion of existing science parks.

''(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed $750,000.

''(3) AWARD.—

''(A) COMPETITION REQUIRED.—The Secretary shall award grants under this subsection pursuant to a full and open competition.

''(B) GEOGRAPHIC DISPERSION.—In conducting a competitive process, the Secretary shall consider the need to avoid undue geographic concentration among any one category of States based on their predominant rural or urban character as indicated by population density.

''(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition for the selection of recipients of grants under this subsection, which shall include requirements relating to the—

''(i) effect the science park will have on regional economic growth and development;

''(ii) number of jobs to be created at the science park and the surrounding regional community each year during its first 3 years;

''(iii) funding to be required to construct, renovate or expand the science park during its first 3 years;

''(iv) amount and type of financing and access to capital available to the applicant;

''(v) types of businesses and research entities expected in the science park and surrounding regional community;

''(vi) letters of intent by businesses and research entities to locate in the science park;

''(vii) capability to attract a well trained workforce to the science park;

''(viii) the management of the science park during its first 5 years;

''(ix) expected financial risks in the construction and operation of the science park and the risk mitigation strategy;

''(x) physical infrastructure available to the science park, including roads, utilities, and telecommunications;

''(xi) utilization of energy-efficient building technology including nationally recognized green building design practices, renewable energy, cogeneration, and other methods that increase energy efficiency and conservation;

''(xii) consideration to the transformation of military bases affected by the base realignment and closure process or the redevelopment of existing buildings, structures, or brownfield sites that are abandoned, idled, or underused into single or multiple building facilities for science and technology companies and institutions;

''(xiii) ability to collaborate with other science parks throughout the world;

''(xiv) consideration of sustainable development practices and the quality of life at the science park; and

''(xv) other such criteria as the Secretary shall prescribe.

''(4) ALLOCATION CONSTRAINTS.—The Secretary may not allocate less than one-third of the total grant funding allocated under this section for any fiscal year to grants under subsection (b) or this subsection without written notification to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Energy and Commerce.

''(d) LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may guarantee up to 80 percent of the loan amount for projects for the construction or expansion, including renovation and modernization, of science park infrastructure.

''(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not exceed—

''(A) $50,000,000 with respect to any single project; and

''(B) $300,000,000 with respect to all projects.

''(3) SELECTION OF GUARANTEE RECIPIENTS.—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and such other things of values as the Secretary shall deem necessary. Recipients of grants under subsection (c) are not eligible for a loan guarantee during the period of the grant. To the extent that the Secretary determines it to be feasible, the Secretary may select recipients of guarantee assistance in accord with a competitive process that takes into account the factors set out in subsection (c)(3)(C) of this section.

''(4) TERMS AND CONDITIONS FOR LOAN GUARANTEES.—The loans guaranteed under this subsection shall be subject to such terms and conditions as the Secretary may prescribe, except that—

''(A) the final maturity of such loans made or guaranteed may not exceed the lesser of—

''(i) 30 years; or

''(ii) 90 percent of the useful life of any physical asset to be financed by the loan;

''(B) a loan guaranteed under this subsection may not be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

''(C) a loan may not be guaranteed under this subsection unless the Secretary determines that the lender is responsible and that provision is made for servicing the loan on reasonable terms and in a manner that adequately protects the financial interest of the United States;

''(D) a loan may not be guaranteed under this subsection if—

''(i) the income from the loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

''(ii) the guarantee provides significant collateral or security, as determined by the Secretary in coordination with the Secretary of the Treasury, for other obligations the income from which is so excluded;

''(E) any guarantee provided under this subsection shall be conclusive evidence that—

''(i) the guarantee has been properly obtained;

''(ii) the underlying loan qualified for the guarantee; and

''(iii) absent fraud or material misrepresentation by the holder, the guarantee is presumed to be valid, legal, and enforceable;

''(F) the Secretary may not extend credit assistance unless the Secretary has determined that there is a reasonable assurance of repayment; and

''(G) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required under section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

''(5) PAYMENT OF LOSSES.—

''(A) IN GENERAL.—If, as a result of a default by a borrower under a loan guaranteed under

this subsection, after the holder has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to the holder the percentage of the loss specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

''(B) ENFORCEMENT OF RIGHTS.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

''(C) FORBEARANCE.—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990) is available.

''(6) EVALUATION OF CREDIT RISK.—

''(A) The Secretary shall periodically assess the credit risk of new and existing direct loans or guaranteed loans.

''(B) Not later than 2 years after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the Comptroller General of the United States shall—

''(i) conduct a review of the subsidy estimates for the loan guarantees under this section; and

''(ii) submit to Congress a report on the review conducted under this paragraph.

''(7) TERMINATION.—A loan may not be guaranteed under this section after September 30, 2013.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for each of fiscal years 2011 through 2013 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of guaranteeing $300,000,000 in loans under this section, such sums to remain available until expended.

''(e) REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program—

''(A) to gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

''(B) to provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

''(C) to support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

''(D) to collect and make available data on regional innovation cluster activity in the United States, including data on—

''(i) the size, specialization, and competitiveness of regional innovation clusters;

''(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

''(iii) supply chain product and service flows within and between regional innovation clusters.

''(2) RESEARCH GRANTS.—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

''(3) DISSEMINATION OF INFORMATION.—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

''(4) REGIONAL INNOVATION GRANT PROGRAM.—The Secretary shall incorporate data and analysis relating to any grant under subsection (b) or (c) and any loan guarantee under subsection (d) into the program established under this subsection.

''(f) INTERAGENCY COORDINATION.—

''(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

''(2) COLLABORATION.—

''(A) IN GENERAL.—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multiagency funding opportunities, on regional innovation strategies.

''(B) SMALL BUSINESSES.—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

''(g) EVALUATION.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

''(2) REQUIREMENTS.—The evaluation shall include—

''(A) whether the program is achieving its goals;

''(B) any recommendations for how the program may be improved; and

''(C) a recommendation as to whether the program should be continued or terminated.

''(h) DEFINITIONS.—In this section:

''(1) REGIONAL INNOVATION CLUSTER.—The term 'regional innovation cluster' means a geographically bounded network of similar, synergistic, or complementary entities that—

''(A) are engaged in or with a particular industry sector;

''(B) have active channels for business transactions and communication;

''(C) share specialized infrastructure, labor markets, and services; and

''(D) leverage the region's unique competitive strengths to stimulate innovation and create jobs.

''(2) SCIENCE PARK.—The term 'Science park' means a property-based venture, which has—

''(A) master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services;

''(B) a contractual or operational relationship with one or more science- or research-related institution of higher education or governmental or non-profit research laboratories;

''(C) a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development;

''(D) a role in facilitating the transfer of technology and business skills between researchers and industry teams; and

''(E) a role in promoting technology-led economic development for the community or region in which the science park is located. A science park may be owned by a governmental or not-for-profit entity, but it may enter into partnerships or joint ventures with for-profit entities for development or management of specific components of the park.

''(3) STATE.—The term 'State' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

''(i) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (d)(8), there are authorized to be appropriated $100,000,000 for each of fiscal years 2011 through 2013 to carry out this section (other than for loan guarantees under subsection (d)).''.

SEC. 604. STUDY ON ECONOMIC COMPETITIVENESS AND INNOVATIVE CAPACITY OF UNITED STATES AND DEVELOPMENT OF NATIONAL ECONOMIC COMPETITIVENESS STRATEGY.

(a) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall complete a comprehensive study of the economic competitiveness and innovative capacity of the United States.

(2) MATTERS COVERED.—The study required by paragraph (1) shall include the following:

(A) An analysis of the United States economy and innovation infrastructure.

(B) An assessment of the following:

(i) The current competitive and innovation performance of the United States economy relative to other countries that compete economically with the United States.

(ii) Economic competitiveness and domestic innovation in the current business climate, including tax and Federal regulatory policy.

(iii) The business climate of the United States and those of other countries that compete economically with the United States.

(iv) Regional issues that influence the economic competitiveness and innovation capacity of the United States, including—

(I) the roles of State and local governments and institutions of higher education; and

(II) regional factors that contribute positively to innovation.

(v) The effectiveness of the Federal Government in supporting and promoting economic competitiveness and innovation, including any duplicative efforts of, or gaps in coverage between, Federal agencies and departments.

(vi) Barriers to competitiveness in newly emerging business or technology sectors, factors influencing underperforming economic sectors, unique issues facing small and medium enterprises, and barriers to the development and evolution of start-ups, firms, and industries.

(vii) The effects of domestic and international trade policy on the competitiveness of the United States and the United States economy.

(viii) United States export promotion and export finance programs relative to export promotion and export finance programs of other countries that compete economically with the United States, including Canada, France, Germany, Italy, Japan, Korea, and the United Kingdom, with noting of export promotion and export finance programs carried out by such countries that are not analogous to any programs carried out by the United States.

(ix) The effectiveness of current policies and programs affecting exports, including an assessment of Federal trade restrictions and State and Federal export promotion activities.

(x) The effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.

(xi) Domestic and international intellectual property policies and practices.

(xii) Manufacturing capacity, logistics, and supply chain dynamics of major export sectors, including access to a skilled workforce, physical infrastructure, and broadband network infrastructure.

(xiii) Federal and State policies relating to science, technology, and education and other relevant Federal and State policies designed to promote commercial innovation, including immigration policies.

(C) Development of recommendations on the following:

(i) How the United States should invest in human capital.

(ii) How the United States should facilitate entrepreneurship and innovation.

(iii) How best to develop opportunities for locally and regionally driven innovation by providing Federal support.

(iv) How best to strengthen the economic infrastructure and industrial base of the United States.

(v) How to improve the international competitiveness of the United States.

(3) CONSULTATION.—

(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in consultation with the National Economic Council of the Office of Policy Development, such Federal agencies as the Secretary considers appropriate, and the Innovation Advisory Board established under subparagraph (B). The Secretary shall also establish a process for obtaining comments from the public.

(B) INNOVATION ADVISORY BOARD.—

(i) IN GENERAL.—The Secretary shall establish an Innovation Advisory Board for purposes of obtaining advice with respect to the conduct of the study required by paragraph (1).

(ii) COMPOSITION.—The Advisory Board established under clause (i) shall be comprised of 15 members, appointed by the Secretary—

(I) who shall represent all major industry sectors;

(II) a majority of whom should be from private industry, including large and small firms, representing advanced technology sectors and more traditional sectors that use technology; and

(III) who may include economic or innovation policy experts, State and local government officials active in technology-based economic development, and representatives from higher education.

(iii) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board established under clause (i).

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the completion of the study required by subsection (a), the Secretary shall develop, based on the study required by subsection (a)(1), a national 10-year strategy to strengthen the innovative and competitive capacity of the Federal Government, State and local governments, United States institutions of higher education, and the private sector of the United States.

(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

(A) Actions to be taken by individual Federal agencies and departments to improve competitiveness.

(B) Proposed legislative actions for consideration by Congress.

(C) Annual goals and milestones for the 10-year period of the strategy.

(D) A plan for monitoring the progress of the Federal Government with respect to improving conditions for innovation and the competitiveness of the United States.

(c) REPORT.—

(1) IN GENERAL.—Upon the completion of the strategy required by subsection (b), the Secretary of Commerce shall submit to Congress and the President a report on the study conducted under subsection (a) and the strategy developed under subsection (b).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The findings of the Secretary with respect to the study conducted under subsection (a).

(B) The strategy required by subsection (b).

SEC. 605. PROMOTING USE OF HIGH-END COMPUTING SIMULATION AND MODELING BY SMALL- AND MEDIUM-SIZED MANUFACTURERS.

(a) FINDINGS.—Congress finds that—

(1) the utilization of high-end computing simulation and modeling by large-scale government contractors and Federal research entities has resulted in substantial improvements in the development of advanced manufacturing technologies; and

(2) such simulation and modeling would also benefit small- and medium-sized manufacturers in the United States if such manufacturers were to deploy such simulation and modeling throughout their manufacturing chains.

(b) POLICY.—It is the policy of the United States to take all effective measures practicable to ensure that Federal programs and policies encourage and contribute to the use of high-end computing simulation and modeling in the United States manufacturing sector.

(c) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall carry out, through an interagency consulting process, a study of the barriers to the use of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(2) FACTORS.—In carrying out the study required by paragraph (1), the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall consider the following:

(A) The access of small- and medium-sized manufacturers in the United States to high-performance computing facilities and resources.

(B) The availability of software and other applications tailored to meet the needs of such manufacturers.

(C) Whether such manufacturers employ or have access to individuals with appropriate expertise for the use of such facilities and resources.

(D) Whether such manufacturers have access to training to develop such expertise.

(E) The availability of tools and other methods to such manufacturers to understand and manage the costs and risks associated with transitioning to the use of such facilities and resources.

(3) REPORT.—Not later than 270 days after the commencement of the study required by paragraph (1), the Secretary of Commerce shall, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, submit to Congress a report on such study. Such report shall include such recommendations for such legislative or administrative action as the Secretary of Commerce considers appropriate in light of the study to increase the utilization of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(d) AUTHORIZATION OF DEMONSTRATION AND PILOT PROGRAMS.—As part of the study required by subsection (c)(1), the Secretary of Commerce, the Secretary of Energy, and the Director of the Office of Science and Technology Policy may carry out such demonstration or pilot programs as either Secretary or the Director considers appropriate to gather experiential data to evaluate the feasibility and advisability of a specific program or policy initiative to reduce barriers to the utilization of high-end computer modeling and simulation by small- and medium-sized manufacturers in the United States.

TITLE VII—NIST GREEN JOBS

SEC. 701. SHORT TITLE.

This title may be cited as the ''NIST Grants for Energy Efficiency, New Job Opportunities, and Business Solutions Act of 2010'' or the ''NIST GREEN JOBS Act of 2010''.

SEC. 702. FINDINGS.

Congress finds the following:

(1) Over its 20-year existence, the Hollings Manufacturing Extension Partnership has proven its value to manufacturers as demonstrated by the resulting impact on jobs and the economies of all 50 States and the Nation as a whole.

(2) The Hollings Manufacturing Extension Partnership has helped thousands of companies reinvest in themselves through process improvement and business growth initiatives leading to more sales, new markets, and the adoption of technology to deliver new products and services.

(3) Manufacturing is an increasingly important part of the construction sector as the industry moves to the use of more components and factory built sub-assemblies.

(4) Construction practices must become more efficient and precise if the United States is to construct and renovate its building stock to reduce related carbon emissions to levels that are consistent with combating global warming.

(5) Many companies involved in construction are small, without access to innovative manufacturing techniques, and could benefit from the type of training and business analysis activities that the Hollings Manufacturing Extension Partnership routinely provides to the Nation's manufacturers and their supply chains.

(6) Broadening the competitiveness grant program under section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) could help develop and diffuse knowledge necessary to capture a large portion of the estimated $100 billion or more in energy savings if buildings in the United States met the level and quality of energy efficiency now found in buildings in certain other countries.

(7) It is therefore in the national interest to expand the capabilities of the Hollings Manufacturing Extension Partnership to be supportive of the construction and green energy industries.

SEC. 703. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended—

(1) by striking ''to develop'' in the first sentence and inserting ''to add capabilities to the MEP program, including the development of''; and

(2) by striking the last sentence and inserting ''Centers may be reimbursed for costs incurred under the program. These themes—

''(A) shall be related to projects designed to increase the viability both of traditional manufacturing sectors and other sectors, such as construction, that increasingly rely on manufacturing through the use of manufactured components and manufacturing techniques, including supply chain integration and quality management;

''(B) shall be related to projects related to the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities; and

''(C) may extend beyond these traditional areas to include projects related to construction industry modernization.''.

(b) SELECTION.—Section 25(f)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(5)) is amended to read as follows:

''(5) SELECTION.—

''(A) IN GENERAL.—Awards under this section shall be peer reviewed and competitively awarded. The Director shall endeavor to select at least one proposal in each of the 9 statistical divisions of the United States (as designated by the Bureau of the Census). The Director shall select proposals to receive awards that will—

''(i) create jobs or train newly hired employees;

''(ii) promote technology transfer and commercialization of environmentally focused materials, products, and processes;

''(iii) increase energy efficiency; and

''(iv) improve the competitiveness of industries in the region in which the Center or Centers are located.

''(B) ADDITIONAL SELECTION CRITERIA.—The Director may select proposals to receive awards that will—

''(i) encourage greater cooperation and foster partnerships in the region with similar Federal, State, and locally funded programs to encourage energy efficiency and building technology; and

''(ii) collect data and analyze the increasing connection between manufactured products and manufacturing techniques, the future of construction practices, and the emerging application of products from the green energy industries.''.

(c) OTHER MODIFICATIONS.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended—

(1) by adding at the end the following:

''(7) DURATION.—Awards under this section shall last no longer than 3 years.

''(8) ELIGIBLE PARTICIPANTS.—In addition to manufacturing firms eligible to participate in the Centers program, awards under this subsection may be used by the Centers to assist small- or medium-sized construction firms. Centers may be reimbursed under the program for working with such eligible participants.

''(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized or appropriated to carry out this section, there are authorized to be appropriated to the Secretary of Commerce $7,000,000 for each of the fiscal years 2011 through 2013 to carry out this subsection.''.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.

Not later than May 31, 2013, the Comptroller General of the United States shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that evaluates the status of the programs authorized in this Act, including the extent to which such programs have been funded, implemented, and are contributing to achieving the goals of the Act.

SEC. 802. SALARY RESTRICTIONS.

(a) OBSCENE MATTER ON FEDERAL PROPERTY.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of violating section 1460 of title 18, United States Code.

(b) USE OF FEDERAL COMPUTERS FOR CHILD PORNOGRAPHY OR EXPLOITATION OF MINORS.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of a violation of section 2252 of title 18, United States Code.

SEC. 803. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

''SEC. 12. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

''In order to carry out the purposes of this Act, the Commission may—

''(1) undertake research and development work in connection with any matter in relation to which the Commission has jurisdiction; and

''(2) promote the carrying out of such research and development by others, or otherwise to arrange for such research and development to be carried out by others.''.

TITLE IX—DEPARTMENT OF ENERGY

SEC. 901. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.

(a) IN GENERAL.—Sections 3171, 3175, and 3191 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381h, 7381j, 7381p) are repealed.

(b) AUTHORIZATION OF APPROPRIATIONS FOR SUMMER INSTITUTES.—Section 3185(f) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381n(f)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) $25,000,000 for each of fiscal years 2011 through 2013.''.

(c) CONFORMING AMENDMENTS.—

(1) Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended by striking chapters 1, 2, and 5 (42 U.S.C. 7381h, 7381j, 7381p).

(2) Section 3195 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381r) is amended by striking ''chapters 1, 3, and 4'' each place it appears and inserting ''chapters 3 and 4''.

SEC. 902. ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR SCIENCE TALENT PROGRAM.—Section 5004(f) of the America COMPETES Act (42 U.S.C. 16532(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $9,800,000 for fiscal year 2011;

''(E) $10,100,000 for fiscal year 2012; and

''(F) $10,400,000 for fiscal year 2013.''; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $8,240,000 for fiscal year 2011;

''(E) $8,500,000 for fiscal year 2012; and

''(F) $8,750,000 for fiscal year 2013.''.

(b) HYDROCARBON SYSTEMS SCIENCE TALENT PROGRAM.—Section 5005 of the America COMPETES Act (42 U.S.C. 16533) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(J) hydrocarbon spill response and remediation.''; and

(2) in subsection (f)(1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $9,800,000 for fiscal year 2011;

''(E) $10,000,000 for fiscal year 2012; and

''(F) $10,400,000 for fiscal year 2013.''.

(c) EARLY CAREER AWARDS.—Section 5006(h) of the America COMPETES Act (42 U.S.C. 16534(h)) is amended by striking ''2010'' and inserting ''2013''.

(d) PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.—Section 5009(f) of the America COMPETES Act (42 U.S.C. 16536(f)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) $20,600,000 for fiscal year 2011;

''(5) $21,200,000 for fiscal year 2012; and

''(6) $21,900,000 for fiscal year 2013.''.

(e) DISTINGUISHED SCIENTIST PROGRAM.—Section 5011(j) of the America COMPETES Act (42 U.S.C. 16537(j)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) $31,000,000 for fiscal year 2011;

''(5) $32,000,000 for fiscal year 2012; and

''(6) $33,000,000 for fiscal year 2013.''.

SEC. 903. BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

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

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

(3) by adding at the end the following:

''(5) $5,247,000,000 for fiscal year 2011;

''(6) $5,614,000,000 for fiscal year 2012; and

''(7) $6,007,000,000 for fiscal year 2013.''.

SEC. 904. ADVANCED RESEARCH PROJECTS AGENCY-ENERGY.

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (a)(3), by striking ''subsection (m)(1)'' and inserting ''subsection (n)(1)'';

(2) in subsection (c)(2)(A), by inserting ''and applied'' after ''advances in fundamental'';

(3) in subsection (e)—

(A) in paragraph (3)—

(i) by striking subparagraph (C) and inserting the following:

''(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and''; and

(ii) in subparagraph (D), by striking ''and'' after the semicolon at the end;

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

(C) by adding at the end the following:

''(5) pursuant to subsection (c)(2)(C)—

''(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

''(B) adopting measures to ensure that, in making awards, program managers adhere to the purposes of subsection (c)(2)(C); and

''(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA–E funding projects in technology areas already being undertaken by industry.'';

(4) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively;

(5) by inserting after subsection (e) the following:

''(f) AWARDS.—In carrying out this section, the Director may provide awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.'';

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

''(1) IN GENERAL.—The Director shall establish and maintain within ARPA–E a staff with sufficient qualifications and expertise to enable ARPA–E to carry out the responsibilities of ARPA–E under this section in conjunction with other operations of the Department.'';

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the paragraph heading, by striking ''PROGRAM MANAGERS'' and inserting ''PROGRAM DIRECTORS'';

(ii) in subparagraph (A), by striking ''program managers for each of'' and inserting ''program directors for'';

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''program manager'' and inserting ''program director'';

(II) in clause (iv), by striking '', with advice under subsection (j) as appropriate,'';

(III) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(IV) by inserting after clause (iv) the following:

''(v) identifying innovative cost-sharing arrangements for ARPA–E projects, including through use of the authority provided under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));'';

(V) in clause (vi) (as redesignated by subclause (III)), by striking ''; and'' and inserting a semicolon; and

(VI) by inserting after clause (vi) (as redesignated by subclause (III)) the following:

''(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and'';

(iv) in subparagraph (C), by inserting ''not more than'' after ''shall be''; and

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''and'' after the semicolon at the end; and

(II) by striking clause (ii) and inserting the following:

''(ii) fix the basic pay of such personnel at a rate to be determined by the Director at rates not in excess of Level II of the Executive Schedule (EX–II) without regard to the civil service laws; and

''(iii) pay any employee appointed under this subpart payments in addition to basic pay, except that the total amount of additional payments paid to an employee under this subpart for any 12-month period shall not exceed the least of the following amounts:

''(I) $25,000.

''(II) The amount equal to 25 percent of the annual rate of basic pay of the employee.

''(III) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.'';

(ii) in subparagraph (B), by striking ''not less than 70, and not more than 120,'' and inserting ''not more than 120'';

(7) in subsection (h)(2) (as redesignated by paragraph (4))—

(A) by striking ''2008'' and inserting ''2010''; and

(B) by striking ''2011'' and inserting''2013'';

(8) by striking subsection (j) (as redesignated by paragraph (4)) and inserting the following:

''(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA–E.'';

(9) in subsection (l) (as redesignated by paragraph (4))—

(A) in paragraph (1), by striking ''4 years'' and inserting'' 6 years''; and

(B) in paragraph (2)(B), by inserting '', and the manner in which those lessons may apply to the operation of other programs of the Department'' after ''ARPA–E''; and

(10) in subsection (n) (as redesignated by paragraph (4))—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(C) $300,000,000 for fiscal year 2011;

''(D) $306,000,000 for fiscal year 2012; and

''(E) $312,000,000 for fiscal year 2013.'';

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4)(B) (as redesignated by subparagraph (C))—

(i) by striking ''2.5 percent'' and inserting ''5 percent''; and

(ii) by inserting '', consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors described in subsection (g)(2)(B)(vii)'' after ''outreach activities''.

TITLE X—EDUCATION

SEC. 1001. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the America COMPETES Act (Public Law 110–69).

SEC. 1002. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of the Act are repealed:

(1) Section 6001 (20 U.S.C. 9801).

(2) Part III of subtitle A of title VI (20 U.S.C. 9841).

(3) Subtitle B of title VI (20 U.S.C. 9851 et seq.)

(4) Subtitle C of title VI (20 U.S.C. 9861 et seq.).

(5) Subtitle E of title VI (20 U.S.C. 9881 et seq.).

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) by redesignating section 6002 (20 U.S.C. 9802) as section 6001;

(2) by redesignating subtitle D of title VI (20 U.S.C. 9871) as subtitle B of title VI; and

(3) by redesignating section 6401 (20 U.S.C. 9871) as section 6201.

SEC. 1003. AUTHORIZATIONS OF APPROPRIATIONS AND MATCHING REQUIREMENT.

(a) TEACHERS FOR A COMPETITIVE TOMORROW.—Section 6116 (20 U.S.C. 9816) is amended to read as follows:

''SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $4,000,000 for each of fiscal years 2011 through 2013, of which—

''(1) $2,000,000 shall be available to carry out section 6113 for each of fiscal years 2011 through 2013; and

''(2) $2,000,000 shall be available to carry out section 6114 for each of fiscal years 2011 through 2013.''.

(b) ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS AND MATCHING REQUIREMENT.—Section 6123 (20 U.S.C. 9833) is amended—

(1) in subsection (h)(1)—

(A) by striking ''100'' and inserting ''50''; and

(B) by striking ''200'' and inserting ''100''; and

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

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2011 through 2013.''.

(c) ALIGNMENT OF EDUCATION PROGRAMS.—Section 6201(j), as redesignated by section 1002(b)(3), is amended to read as follows:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $120,000,000 for each of fiscal years 2011 and 2012.''.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Gordon of Tennessee moves that the House concur in the Senate amendment to H.R. 5116.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology.

The gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee.

□ 1340

GENERAL LEAVE

Mr. GORDON of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 5116.

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

There was no objection.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

On October 12, 2005, in response to a bipartisan request by the Science and Technology Committee and some of our colleagues in the Senate, LAMAR ALEXANDER and JEFF BINGAMAN, the National Academies released their report, ''Rising Above the Gathering Storm.'' The distinguished panel painted a very scary picture. The report made it clear that, without action, the future was bleak for our children and grandchildren. This report was, without question, a call to arms.

September of this year, Norm Augustine released, ''Rising Above the Gathering Storm, Revisited: Rapidly Approaching Category 5.'' The updated report highlights progress that has been made in the past 5 years, including enactment of the original America COMPETES Act, but he underscores that America's competitive position in the world now faces greater challenges and that research investments are even more critical today.

The message from the report is clear: We need to double-down on our investments in science and technology. The worst thing we could do would be to downshift while the rest of the world kicks it into high gear.

As chairman of the Gathering Storm Committee and former chairman and CEO of Lockheed Martin, Norm Augustine said, in all the years he was an aircraft engineer and dealing with the common dilemma of trying to make an overweight aircraft fly, the solution was never to lop off an engine. Science funding is the engine of a knowledge-based economy. If we remove it, our economy will crash and burn.

More than half of our economic growth since World War II can be attributed to development and adoption of new technologies. These investments are the path towards sustained economic recovery and growth and the path toward prosperity for the next 50 years. There is an undeniable relationship between investment in R&D and the creation of jobs, the creation of companies, and economic growth.

The Science Coalition, a nonprofit, nonpartisan organization of the Nation's leading research universities, released a report entitled, ''Sparking Economic Growth: How Federally Funded University Research Creates Innovation, New Companies and Jobs.'' This report tells the stories of 100 companies, including Google, Cisco, SAS, Genentech, Orbital Sciences, Sun Power, Medtronic, Hewlett Packard, and many others, that were all created based on research funded with Federal dollars.

The U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Council on Competitiveness, and the Task Force on American Innovation all understand the benefits to U.S. companies of making a sustained commitment to research and STEM education. We have a huge opportunity before us to make progress toward that goal.

While there have been concessions made in light of the economic environment, this bill preserves the intent of the ''Rising Above the Gathering Storm'' report and the original COMPETES. It keeps our basic research agencies on a doubling path. It continues to invest in high-risk, high-reward energy technology development. It will help improve STEM education, and it will help unleash the American spirit of innovation. COMPETES is, and will continue to be, a bipartisan, bicameral effort about which every Member can feel proud.

I applaud all of the people who have worked on this bill, including all the members of the Science and Technology Committee and my dear friend, RALPH HALL. This has been a team effort, across the aisle and across the Capitol.

I also want to take a moment to extend a sincere and heartfelt thank you to the staff of the Committee on Science and Technology, both minority and majority. Their tireless efforts in crafting the House version of this legislation, working through the tough spots, and shepherding it to final passage today deserves special acknowledgment. Without them, this reauthorization of COMPETES would not have been possible.

We are all familiar with the legions of smart, talented professionals who grace the corridors of this institution, and I am sure each of us is impressed on a regular basis with the knowledge and expertise of the staff we work with most closely. However, I am always amazed by the wealth of knowledge lodged with the staff of the Science and Technology Committee. I simply can't say enough about the staff's talent, insight, and institutional knowledge. Their hard work has made the Science Committee more productive, and it has made me a better chairman.

Mr. Speaker, I am proud that, in the two terms that I have had the privilege to lead the Science and Technology Committee, the committee has had 151 bills and resolutions pass the House, all with bipartisan support. But there is nothing that I am more proud of than the America COMPETES Act. There is nothing that we have done that will have deeper, longer lasting, and more positive impacts on our Nation than this bill.

I cannot think of anything I would rather be doing, on what is likely my final act on this House floor after 26 years of service, than sending this bill to the President's desk. It's important to me personally because I have a 9-year-old daughter, and if we do not want our children and grandchildren to inherit a national standard of living less than their parents, a reversal of the American Dream, we need to support research, foster innovation, and improve education.

The business community has urged us to pass this bill to support research, foster innovation, and improve education. The academic community has urged us to pass this bill to support research, foster innovation, and improve education. The scientific community has urged us to pass this bill to support research, foster innovation, and improve education. And every one of our colleagues in the Senate has agreed that this bill needs to be sent to the President's desk so the U.S. can support research, foster innovation, and improve education and create 21st century jobs.

I urge my colleagues to stand with the business community, the academic community, the scientific community, and to send a strong message that the U.S. must maintain its scientific and economic leadership.

With that, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I rise today in support of a very robust basic research and yield myself as much time as I may consume.

This COMPETES Act is back again. It's been here before, and it's living proof that Billy Graham was right when he said you can hate the sin but love the sinner. I'm fond of BART GORDON, have worked with him. We're going to miss him when he leaves here. But I've never really liked to have a great bill like COMPETES with so much piled on it, so many hundreds of thousands and millions of dollars piled on it that has never really been debated on either floor.

I've stated on this floor a lot of times this year, I remain committed to the goals of the original America COMPETES. Unfortunately, the Senate omnibus language before us today includes a hodgepodge of so many extraneous measures that it is indeed most surprising that we are considering this 5 days before Christmas. Like the House-passed version, it continues to take us off track from what he set out to do, in a bipartisan fashion, more than 5 years ago.

In 2007, Congress responded to the recommendations of many experts that the Federal Government must increase its investment in basic research and in science and math education by developing the America COMPETES Act. The principles behind the legislation were sound, bipartisan, and well-understood.

When COMPETES first passed, our budget deficit was projected at $160 billion, and the national debt was $8 trillion. Sadly, today, just 3 years later, the deficit's projected not $160 billion but $1.5 trillion, and the national debt is over $13 trillion, a 60 percent increase in less than 3 years. This dramatic collapse in our fiscal condition demands that we get spending under control and work harder than ever to patronize taxpayer dollars.

Before I delve into the depths of the bill, let me discuss the process that brought us to this point.

The Senate negotiated amongst themselves and hotlined a bill, then passed it via unanimous consent, that is much different than the bill reported out of even the Senate conference committee back in July. The report on that bill was not filed until December 10, and we didn't see the actual text of the amendment before us until last Friday, this past Friday. We still don't have a complete CBO cost estimate.

□ 1350

Now as we are under a closed rule, we are considering a measure that the Senate has spoken on; but the House as a body, both Democrats and Republicans alike, are having to either accept or reject the Senate's desire in whole, with no opportunity to offer amendments. This is not the way the American people want us to do their business.

They told us in November that they want us to do things differently, and this lame duck Congress is going against those wishes and denying us opportunity to carefully review the items in this $46 billion amendment.

Men who are much smarter than me and whom I greatly respect, like Norm Augustine and Peter O'Donnell, Jr., have encouraged me to support this bill. But, Mr. Speaker, it is hard for me to say that I just can't support this version of COMPETES. If this Senate COMPETES amendment is defeated today, I pledge as the incoming chairman of the Science and Technology Committee to reintroduce the good, fiscally responsible pieces of this comprehensive legislation agency by agency and issue by issue, giving each individual piece the opportunity to be reviewed and voted on by every Member.

Science and technology are the fundamental movers of our economy, and if we want to remain globally competitive, this bill should be considered in smaller pieces and not on the last day of a lame duck congressional session.

Yes, our friends in the Senate have made it a 3-year reauthorization bill, and, yes, they have nearly cut the cost in half; but this $46 billion bill still contains $7.4 billion in new spending.

My good friend and chairman of the committee will tell you that the Senate stripped a number of provisions from the version previously passed and trimmed the bill considerably. I, too, think the Senate missed an opportunity to retain some of the House-passed language, particularly language to assist institutions serving our Nation's veterans and those with disabilities, and language to eliminate pay for Federal employees officially disciplined for viewing, downloading, or exchanging pornography on their work computers.

Unfortunately, it also does not include two bipartisan interagency bills

that passed the House as standalone legislation, bills that would reauthorize our Nation's nanotechnology program and our networking information technology R&D program, NITRD.

On the other hand, I am heartened to see that the Senate removed a number of expensive and in many cases duplicative initiatives added by the House both in committee and on the floor: among them energy hubs, a clean energy consortium, never-before-funded STEM programs at the Department of Education, a laboratory science program, and a decades-old infrastructure construction program at the National Science Foundation.

Alas, it is the items that they did not remove or have not removed on their own, without our input, that cause me the most heartburn. I still have great concern that we are authorizing ARPA-E to the tune of $900 million. This program was never voted on by the House or Senate outside of a conference report, nor has it ever received appropriate funding outside of the stimulus bill. Yet we are going to authorize $900 million to a program that focuses on late-stage technology development and commercialization activities often already supported by the private sector. The amendment before us also keeps and expands a loan guarantee program to build or renovate science parks and develop ''regional innovation clusters,'' alters the MEP program for NIST to make grants to construction and green energy companies, and puts NSF in the business of replicating university programming for future STEM teachers.

Mr. Speaker, correct me if I'm wrong, but America COMPETES is about making this Nation more competitive and ensuring that our basic research agencies have the funding they need to pursue the unknown and scientific and engineering breakthroughs that propel us into the future. It is not about turning these agencies into infrastructure contractors and leaders or oracles, for that matter, who pick winners and losers.

As much as I want to support COMPETES and see NSF, NIST, and the DOE Office of Science reauthorized, I simply can't support this version.

Just like I stated when the House took up the measure on all three previous occasions, this measure continues to be far too expensive, particularly in light of the new and duplicative programs it creates. Further, we have not had the opportunity to give proper oversight to the programs we put in motion in the first COMPETES before authorizing new, additional programs. And, unfortunately, this bill still goes way beyond the goals and direction of the original America COMPETES, taking us from good, solid fundamental research and much too far into the world of commercialization, which many of us on this side of the aisle do not believe is the proper role of the Federal Government.

I want to again thank BART GORDON for the good services he's rendered and for the good service he'll render as a civilian over in the great State of Tennessee.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LIPINSKI), the chairman of the Subcommittee on Research and Science Education.

Mr. LIPINSKI. Mr. Speaker, as unemployment remains painfully high, and we see our students falling behind in math and science, Americans are asking: What can be done to make our future better?

Although today's bill won't gain big headlines, it is a critical step forward. This approach to research, education, and innovation will lead to a better prepared and better educated domestic workforce and an economy built for long-term success.

I am particularly grateful for the leadership of Chairman BART GORDON, the driving force behind the original COMPETES bill and this reauthorization. He has accomplished much in his 26 years in Congress and has fought tirelessly to make Congress and all Americans realize that science and engineering advancements mean economic growth.

As a former college professor, an engineer, and an advocate for American manufacturing, I firmly believe that this bill will help create jobs and ensure a higher standard of living for future generations.

Much of the National Science Foundation title of this bill comes from my bill in the Research and Science Education Subcommittee. Although not as much as I would like to see, this compromise authorizes a steady, responsible increase in research and STEM education funding and properly emphasizes commercialization. The bill also includes language based on the GENIUS Act I introduced with FRANK WOLF to authorize offering cash prizes for solutions to our most difficult scientific problems.

Perhaps most important are the provisions that will help reinvigorate American manufacturing, including the newly created NSF manufacturing research program, and an initiative to help smaller manufacturers reduce costs and increase quality through high-performance computing.

The bill calls for a national competitiveness strategy that includes some elements from my National Manufacturing Strategy Act that the House passed this past summer.

I urge my colleagues to join me not only in voting for this today, but also fighting to fully fund it. If we want to maintain our economic strength, we cannot shortchange critical investments made in this bill for our people or for our research infrastructure. I urge passage of this bill, and I want to especially thank Chairman BART GORDON for all of his work in Congress and all that he has accomplished. This bill is a great testament to his leadership.

Mr. HALL of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I did not expect to speak, and I do not have any prepared comments or notes; but I am going to speak on issues of science which I feel qualified to speak on because I am a scientist, specifically a nuclear physicist. I also want to make it clear I have never received any grant money from the NSF. When I did research, I was supported by the Federal Government directly through the Department of Energy or by the U.S. Navy.

The Federal Government plays an important role in guiding the economy of our Nation. Much of that role is carried forth by the National Science Foundation and some of the other funding agencies.

Let me just give one specific example which I am very familiar with because it is related to my area of research. My good friend, Charlie Townes, who won a Nobel Prize for developing the laser, discovered some years ago that he could make a maser—microwave amplification by stimulated emission of radiation. He decided he could do it with microwaves, and he could do it with light.

So he developed a laser and won the Nobel Prize. How much money did he get from the Federal Government for his research, I don't really know, but I would guess probably not more than $50,000. How much has that contributed to the economy of this Nation? Billions and billions of dollars. Just look at the laser industry and the use of lasers today in so many ways—a huge payoff on government investment in research.

□ 1400

Also, we tend to fund the National Institutes of Health with a healthy amount every year because we are very interested in improving health. How many in this body know that some of the greatest discoveries in health were done by physicists, many of whom were supported by the National Science Foundation? X rays, how would we get along without x rays? Discovered by a physicist, a gentleman by the name of Rontgen in Germany. What about the MRI? The basic concepts developed by physicists. The same for the CAT scan. The basic idea was developed by physicists—not by doctors, not by M.D.'s, but physicists doing basic research. And that's what the National Science Foundation is all about, and that's what keeps our economy stimulated in this Nation.

We have a great deal to fear from the nation of China. China is investing huge amounts of money and is training more engineers and scientists far more than we are producing. They are spending a lot of money on research. And if we wonder why they are doing better than we are in the Nation's economy, it is largely because they are supporting the people who contribute to the development of technology, science, et cetera.

Now, I worked on this issue several years ago. I do not claim credit for the

COMPETES Act. But I did work with Sherry Boehlert, a Congressman who was chairing the Science Committee; FRANK WOLF, who was the chair of the Appropriations Committee dealing with science, and at the suggestion of FRANK WOLF, I arranged for a meeting with the White House. I tried to meet with President Bush. Instead, I met with the Director of the Office of Management and Budget. And over breakfast, I explained, in far more detail than I can do here, precisely what this country needed if we are going to compete in the international marketplace. And the Director of Management and Budget said afterwards, You sold me, but where are we going to get the money? I said, I have ideas for that, too, and presented my ideas.

Out of that, in the next State of the Union speech, President George W. Bush developed the idea of the COMPETES Act. And it was a delight to work with the White House, with the President and with the Office of Management and Budget in developing the COMPETES Act.

Now, I know some of you are concerned about some aspects of the COMPETES Act as it is before us today. I share some of those concerns but certainly not all of them. But the basic point here is that, if we do not act, we are letting down the manufacturers of America.

I was here for the debate on the rule, and I noticed a gentleman from Oklahoma commenting against this act, we should not be supporting this sort of thing. That is very easy to say if you are representing a State where you simply drill holes in the ground and pull out money in the form of oil. Michigan does not have that. Michigan has to work very, very hard to manufacture cars that will sell to the public and get its money, and we all know what has happened there over the last few years.

I think it's very important that we recognize we are not going to compete successfully in the international marketplace unless we invest more money in research, research which is then used by manufacturers to develop new products and to make money and provide jobs.

I strongly urge us to pass this bill. I know it has shortcomings. There are a lot of things I am not happy with either. But the Republicans are taking over next year, and we can then proceed to write the bill precisely the way we want it. But I urge that we do not kill this bill at this time but, rather, that we pass it.

Mr. GORDON of Tennessee. Mr. Speaker, let me first congratulate Dr. EHLERS on a stellar congressional career. His contribution to the Science Committee was enormous, and he will be missed. And having spent as much time as I have on the Science Committee, you develop affection for the committee, for the people, for the Members, and for the staff.

So it is with, really, gratitude that I know that the gentlelady from Texas (Ms. EDDIE BERNICE JOHNSON) is going to be the ranking member in the coming 112th Congress, and I yield to her 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I do rise in support of H.R. 5116, the America COMPETES Reauthorization Act. And I am proud to say that I have worked with Dr. EHLERS, with our incoming chairman, Mr. HALL, as well as our outgoing chairman.

We all know that the reauthorization of America COMPETES is to ensure that our future is more prosperous than our past. It is about ensuring America's memories are honored by investing in dreams that are even higher. The legislation before the U.S. Congress today is a message, a message that makes America understand that we are not here just to compete but to lead the 21st century.

As a member of the House Science and Technology Committee for over 18 years, I am proud to be an author of this bipartisan legislation. As it returns from the Senate, it is not the same bill that we sent over. But nothing is perfect around here, and we are not headed in the future to be perfect. But we must stand up and make sure that our responsibilities to our country and to our future will be intact. Therefore, I will support this legislation and hope that we can improve it at another time.

I am eager to serve with Mr. HALL, as ranking member on the committee, and I hope that we can continue to look at what this country needs to do to educate its young people so that we can be in the future. We are losing ground, and I hope that we will find ways to regain it. I have in mind to try to bring with the chairman a group of CEOs, superintendents, teachers together around the table so we can all understand what we must do to educate our young people for the future if we want to be anywhere near competing with the rest of the world.

I am pleased that this bill reauthorized the Noyce Teacher Scholarship Program, a program which I helped to shape. This program helps to prepare thousands of qualified new teachers and provides current teachers with academic and development courses. Every bit of our research shows that that's one of our major problems. We have teachers teaching courses where they have never majored. Seventy percent of them, as a matter of fact, in this country are teaching courses where they never majored.

It is never going to be what we want as long as we have teachers teaching math, science, engineering that have never majored in it in college. We have to have teachers who are more prepared. And as women and minorities continue to be underrepresented in the sciences, it is unfortunate that the Senate chose to cut out the Fulfilling the Potential of Women in Academic Science and Engineering Act. I have sponsored that for two sessions. I will again. I do not believe that we, as a Nation, can compete ever with ignoring the fact that 50 percent of its brainpower is left behind. I am pleased that this bill does prohibit the consolidation of programs that serve minority institutions and students in the National Science Foundation.

We must be proactive. We have more work to ensure that all Americans are afforded the same chance to compete in the 21st century. It is not an in-your-face. It is not a civil rights act. It is to make sure that the majority of the students in this Nation become prepared to save this Nation.

We cannot sit around and think that it is going to happen without effort. We need to help our schools around the Nation to elevate their math and science programs so that they can achieve the standard exemplified by the School of Science and Engineering at Townview, a high school in my district, in Dallas, Texas, which is rated one of the best public schools in the Nation. But that's only 20 percent of the students in the District. We must make sure that that quality of education is offered to all of our students.

I want to commend Chairman GORDON and Ranking Member, soon-to-be chairman, Mr. HALL for their hard work on the legislation. And I believe that if nothing else gels us as a committee, looking out for our young people and the future of our Nation will become a real goal to achieve because it represents what is bipartisan; it represents a concerted effort to create a more competitive science and engineering workforce.

I support this bill, Mr. Speaker. It is not perfect. But we have got to move on and look to the future.

□ 1410

Mr. HALL of Texas. Mr. Speaker, I say to my colleague who will be working side by side with me for the next 2 years, my neighbor from Dallas and Rockwall County, that I appreciate her, look forward to working with her. She was the very first person, when I switched parties, to call me and say it didn't matter one iota to her. I've always appreciated her for that, and I still do and I will.

And thank you, Dr. EHLERS, a man who's always educated for us. That's his thrust, and he's done a good job. But for him, we'd have gone the wrong way a lot of times.

I now yield 5 minutes to the gentleman from Georgia (Mr. BROUN).

Mr. BROUN of Georgia. Mr. Speaker, I rise today in opposition to the Senate amendment to H.R. 5116, the American COMPETES Reauthorization Act of 2010.

But before sharing my views on this COMPETES reauthorization, I want to take this opportunity to share my frustration and express the frustration of my constituents. I know that I'm not alone in the view that working on consequential pieces of legislation in a lame duck session, outside of the proper legislative process, is simply wrong.

In fact, it could be argued that it's unconstitutional.

The 20th amendment of the Constitution moved the start date of new Congresses from March to January to stop exactly what we're doing here today, passing important legislation in a lame duck session. In 1932, Democratic Representative Wilburn Cartwright of Oklahoma stated, ''This amendment will free Congress of the dead hand of the so-called lame duck.'' Sadly, he could not have been more wrong.

The Democrats are using this lame duck session to continue pursuing their rejected agenda. This is no different than a CEO being fired and continuing to make major decisions for the company that he was just fired from for another 2 months. We must stop this end-run around the electoral process and the U.S. Constitution by prohibiting further lame duck legislation.

Now, this COMPETES reauthorization is the perfect example of why we need to end lame duck legislation. It contains reckless spending and misguided policy initiatives. The closed-door process through which it was developed is irresponsible at a time when the Federal deficit has ballooned to $1.5 trillion, and our national debt will soon eclipse $14 trillion. These unprecedented figures are not deterring our Democratic colleagues from authorizing over $45 billion of spending, $7 billion of which is new spending in this bill.

Beyond the out-of-control spending, a clear shift in policy priorities away from those envisioned in the original COMPETES process now exists in this bill.

When the National Academy of Sciences unveiled the ''Gathering Storm'' report in 2005, it identified funding for long-term basic research as the top priority for science and technology. Today's reauthorization emphasizes late-stage technology commercialization activities and beyond to manufacturing and construction activities, priorities that should not be the responsibility of the Federal Government.

For example, title VI of this bill creates a loan guarantee program to stabilize innovative manufacturing, a loan guarantee program to subsidize construction and renovation of research parks, and a vaguely defined regional innovation program to support grants to create innovation clusters as well as construct and renovate research parks.

Finally, I want to note my disappointment associated with the process on this bill. Many Republican amendments that were incorporated in the House-passed bill were changed or deleted without any Member consultation. This was the case with an amendment I offered prohibiting any lobbying effort associated with the activities authorized in the bill.

This bill spends money that we don't have on things we don't need and, in some cases, on things the government simply should not be involved in. It is the product of backroom dealings that excluded House Republicans, and it simply should not pass at this late stage of 111th Congress.

I urge opposition to this bill. I urge a ''no'' vote.

Mr. GORDON of Tennessee. Mr. Speaker, for the purposes of a unanimous consent request, I yield to a very important contributor to this bill, the gentleman from California (Mr. MILLER), chairman of the Education and Labor Committee.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. I thank the chairman for yielding, and I thank him for all of his work on this legislation.

Mr. Speaker, I rise today in strong support of the America COMPETES Reauthorization Act.

This legislation makes strategic and smart investments in students pursuing degrees in the science, technology, engineering or math fields.

It continues the Noyce Teacher Scholarship Program, which encourages students studying in STEM fields to earn a teaching credential and enter the classroom.

It makes changes to encourage more colleges and universities to participate in these programs.

This will ensure we have prepared teachers in our nation's science and mathematics classrooms to educate and inspire the next generation of engineers and entrepreneurs.

The COMPETES Act also continues funding for the Advanced Placement and International Baccalaureate programs—programs that set high standards and give students the advanced skills they need for the workforce of tomorrow.

This legislation couldn't come at a more important time. It invests in our future competitiveness at a time when our global reputation is not where it should be.

Over just the past few years we have begun to reinvigorate and awaken the American drive to innovate, but we have much further to go.

Earlier this month, the results of the 2009 Program for International Student Assessment showed that the United States ranks average, or 17th out of the 33 other industrialized nations.

The difference between the countries at the top of these rankings and the U.S. is that the countries that are outperforming us have made developing the best education system in the world a national goal.

They've recognized that the strength of their economy will be inextricably tied to the strength of their education system in the 21st century.

It is time we decide as a nation that we can no longer afford to stay just average.

By passing this legislation, we will continue our efforts to strengthen the STEM fields. We will improve our global competitiveness and our economic stability.

I urge all my colleagues to support this bill.

Mr. GORDON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WU), the subcommittee chairman on Technology and Innovation, someone who made a great contribution to this bill.

Mr. WU. Mr. Speaker, I rise in strong support of this reauthorization bill, and I want to just point out to my friend from Georgia that not everything that one is opposed to is unconstitutional. And I share the gentleman's concern about this lame duck session. And if the gentleman wanted to propose a constitutional amendment to move our swearing-in date to the first Tuesday in November, perhaps his concerns would be addressed. But pending that, we have a lot of legitimate activity for very, very important legislation. And I can think of no greater tribute to the outgoing chairman, Mr. GORDON, and Mr. HALL, who has worked with the chairman for a long time on this legislation, than the passage of this bill.

I'm particularly proud of the contribution that my subcommittee, the Technology and Innovation Subcommittee, has made to this legislation, because long-term investment in innovation is absolutely crucial to our Nation's global competitiveness, and we have a responsibility to support the kind of economic environment that empowers our Nation's private sector to innovate and create high-wage, private-sector jobs.

The bipartisan legislation that we are considering today will strengthen our Nation's economic competitiveness by helping to create an environment that encourages innovation and which facilitates growth.

As the chairman rightfully pointed out, innovation accounted for greater than 50 percent of U.S. GDP growth from World War II to the year 2000, and innovation can help America grow our way out of our current anemic economic state.

Among other things, the bill makes crucial investments in the Manufacturing Extension Partnership, which will help us better address the needs of our Nation's small and medium-sized manufacturers.

The bill will also help ensure that students and trainees will have what is necessary to secure a good-paying job in their own community by requiring MEP centers to work with community colleges to train for the skills needed by local manufacturers.

The SPEAKER pro tempore (Mrs. HALVORSON). The time of the gentleman has expired.

Mr. GORDON of Tennessee. I yield the gentleman an additional 30 seconds.

Mr. WU. This is great legislation. The chairman has done a great job, and I urge passage.

Mr. HALL of Texas. Madam Speaker, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 2 minutes to our resident authority on nuclear energy, the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. I want to commend you, Mr. Chairman, for an extraordinary piece of work, and Ranking Member HALL and the other members

of the committee. I came to this committee halfway through the year, and I was absolutely amazed and delighted to see the intensity of discussions—35 separate hearings.

And my colleague from Georgia who thinks we ought to put this off, I cannot imagine leaving a job half done—not half done, but 99 percent done, and then let it go after all the work that's been put together here.

This is a good bill. I don't ever like what the other House does to my legislation, and I'm sure all of us feel the same way. But what I'd like to point out here in this bill is that there are basically five things that this Nation needs to do if we're going to succeed economically: best education, best research, make the things that come from that research, have the infrastructure, and then be international.

□ 1420

This is about three of those things, three very important things. The education, the STEM education is in this legislation. Without it, we will never be able to compete. And we ought not wait until next year to get that going.

Secondly, with regard to the research, it is fundamental. I come from California, the great Silicon Valley and all of those new technologies come from the research at the universities in the surrounding area. This legislation promotes that research agenda across the Nation, not just in California, but at every other research institution throughout the United States.

And finally, there is a major piece of this legislation that talks about making it in America. If we are going to have a strong middle class, a strong economy, we must once again make it in America. This legislation provides some fundamental elements necessary for us to do that. For example, the loan guarantee that was degraded just a few moments ago is exceedingly important because that's the valley of death. How does an entrepreneur, how does a new business get through the valley of death? That's what this is about.

This legislation also provides a way in which we can coordinate our manufacturing expertise. With that, we ought to pass this bill and acknowledge the enormous amount of work that was done over the last Congress.

Mr. HALL of Texas. I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, may I inquire as to the amount of time that is remaining.

The SPEAKER pro tempore. The gentleman from Tennessee has 12½ minutes remaining and the gentleman from Texas has 13 minutes remaining.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to the gentlelady from Maryland (Ms. EDWARDS), who has been a very active and articulate member of our committee.

Ms. EDWARDS of Maryland. Thank you to the chairman for your leadership and your vision. I rise today in strong support of the work that you have put in on America COMPETES. It's legislation that's going to usher in a new era of scientific and economic leadership and prosperity for the country.

In particular, I want to highlight an amendment I authored that will give special consideration to high-needs schools and underrepresented teachers and minorities when determining STEM fellowship grants. My colleagues, we often come together to discuss the importance of education, laying the groundwork for economic prosperity. And here, America COMPETES is an important step forward to laying that foundation, to ensuring that opportunities provided in this legislation will be available to all of our young people, regardless of race or economic circumstance.

This is a game changer; not a Hail Mary pass but a playoff strategy for the future and for the long term success of our children. And we need all of these players on the field. So today let's put our shared sentiments into action, send America COMPETES to the President's desk so we can continue to generate economic competitiveness, creating high-wage jobs, and educating and preparing all our young people for the future.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to another active member of our committee from Michigan (Mr. PETERS), who has been very active particularly in advanced vehicle technology.

Mr. PETERS. Madam Speaker, the America COMPETES Act supports American manufacturing, innovation, and global competitiveness. COMPETES recognizes the challenges facing America's 21st century manufacturers, as well as the importance of a healthy manufacturing base. The bill includes new manufacturing loan guarantees, improved research and development, and strengthens the Manufacturing Extension Partnership program. The bill also places a much-needed emphasis on science education, from grade schools to the university level. We need a highly educated workforce to create the next advanced vehicle technology or innovative product that will produce more high-quality jobs in America.

COMPETES also supports innovation clusters around the country and creates a focus on innovation within our Federal programs and agencies. America simply cannot afford to sacrifice its innovative edge to growing economies like China and India. The investments made by COMPETES are critical to America's long-term economic health, and I hope my colleagues will join me in supporting this bipartisan legislation.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. TONKO), who has brought his energy expertise to our committee.

Mr. TONKO. I rise today in support of the America COMPETES Act, a debate that has continued for many months, and negotiations have followed, and we are finally one step away from this bipartisan victory. This legislation will create prosperity through science and innovation, reassert our economic and technological leadership throughout the world, and give future generations greater opportunity to achieve the American dream for decades to come.

I have seen firsthand the impact science and innovation can have on our communities. Recently, the Albany, New York, area in my district was named the third fastest high-tech job market in the country. This growth, coupled with today's legislation, is vital if the capital region of New York and the rest of our Nation are to continue on a path toward an innovation economy that, quote, ''Makes It In America.''

We must also educate the next generation of mathematicians and scientists. This bill does that by providing opportunities for STEM students to participate in hands-on scientific research.

Finally, I would like to thank Chairman GORDON for his leadership on this issue. Without his tireless work and that of the committee staff, along with Ranking Member HALL, we would not be here today.

Mr. Chair, you and your leadership will be sorely missed, and I wish you all the best.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 2 minutes to an alumnus of our committee, the gentlelady from Texas (Ms. JACKSON LEE).

(Ms. JACKSON LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON LEE of Texas. Madam Speaker, let me personally thank you for your leadership and continued focus on important issues here in this Congress.

I rise today to celebrate and to thank the chairman of the Science Committee, Chairman GORDON, for his years of commitment and intensity as it relates to the importance of this work. I also add my appreciation to Chairman-elect HALL, whom I have worked with, as I did Congressman GORDON, for some 12 years on the Science Committee. And once on the Science Committee, one can never leave its values and its importance.

As I sat on the Science Committee in the end of the 20th century, I always said that science was the work of the 21st century. And although bills are not perfect, and this bill that has come over from the other body is not, it is where we need to go. And I would simply remind my colleagues of the history of the Model T. When Henry Ford

developed the Model T, that technology generated into an enormous industry in the United States that created new technology and millions of jobs, I might say.

And so here we are today with a great need to reignite, restart our manufacturing journey. And I am delighted that this bill has seen the vision of getting elementary, middle school, high school students involved in the sciences. That's where our Achilles' heels are. That's where the vision comes to invent things, to make things to develop the next generation of jobs. And so it establishes an interagency with a STEM education coordination committee. It provides an interagency committee for coordination of manufacturing R&D.

And to listen to my colleagues talk about subsidies—do they realize that every country around the world is subsidizing their manufacturing to make them more competitive, to have a greater competitive edge? There is nothing wrong with creating jobs for America.

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

Mr. HALL of Texas. Madam Speaker, I yield the lady 2 more minutes.

Ms. JACKSON LEE of Texas. There is nothing wrong with us subsidizing good work, good science, the opportunity for jobs. I don't know what the structure was. Maybe I will go and research what happened with Henry Ford. I saw in those days he put together his family pennies, he made the Model T, and here we are today. But we live in a different economy. We live in a changing time of the dollar. And we live in a time when other countries have no shame in subsidizing business.

□ 1430

We were on the floor earlier today where Germany is subsidizing Airbus. That is their right. But the question is, What are we doing to promote manufacturing?

This reauthorizes the National Science Foundation. It authorizes grants and manufacturing, research and education. That is a good thing. It authorizes program grants for 21st-century graduate education, as well as authorizing a program dealing with research for undergraduates. That is exciting. Innovation is part of what happens here. Then, of course, it authorizes research experiences for high school students as part of the research grants.

So, overall, I guess my bottom line is I am ready to go. I am excited about the opportunities in the 21st century. I want us making things again, whether it is submarines, whether it is airplanes, whether it is new technology for our military personnel, whether or not it is a new space shuttle, a CEV. I want us to make things again. That is how you put people back to work. That is how you keep people's minds churning: What is the next invention we can get? There is no shame to subsidizing this work. And I am delighted that not only are we doing that, but we are expanding the manufacturing loan guarantee program to permit loan guarantees to small and medium-sized manufacturers.

I tell you, my colleagues, these companies are out here waiting. They want to get going. There is limited opportunity for access to credit; and I can tell you, they are excited about this opportunity. Government not involved in helping a country go forward in manufacturing? Whoever heard of that. That is what everybody is doing. It is time for us to stand up as well.

So let me thank you, Chairman GORDON, for your service. I know you are going on to great things. Thank you for allowing me to share some time with you on the Science Committee, and the same to Chairman HALL. Again, vote for this.

I rise in support of H.R. 5116 to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

This legislation is crucial to our efforts to keep America number one by investing in modernizing our Nation's manufacturing, spurring American innovation through basic Research and Development, R&D, and high-risk, high-reward clean energy research, and strengthening math and science education to prepare students for the good jobs of the 21st century.

Today, we consider the Senate amendment to the America COMPETES Reauthorization Act, H.R. 5116, which passed the Senate by unanimous consent on Friday.

The Senate Amendment:

Keeps our Nation on a path to double funding for basic scientific research, which is crucial to some of our most innovative breakthroughs;

Creates jobs with innovative technology loan guarantees for small and mid-sized manufacturers and Regional Innovation Clusters to expand scientific and economic collaboration;

Promotes high-risk high-reward research to pioneer cutting edge discoveries through ARPA–E and promotes job creation in clean energy; and

Creates the next generation of scientists and entrepreneurs by improving science, math, technology, and engineering education at all levels

This bill:

Is a fiscally responsible compromise that reduces the authorization from 5 to 3 years, reducing the cost, and repeals the original COMPETES programs that have not been funded. The Bowles-Simpson deficit commission singled out basic scientific research as a long-term gain for the budget, as it is vital to our Nation's scientific and economic leadership. The bill also bans the use of funds to pay the salary of Federal employees convicted of looking at pornography on Federal property.

The bill is supported by the Chamber of Commerce, National Association of Manufacturers, Business Roundtable, TechAmerica, TechNet, American Association for the Advancement of Science, National Venture Capital Association, Information Technology Industry Council, Association of Public and Land-grant Universities, and Association of American Universities.

It is imperative for us to demonstrate our firm commitment to creating economic prosperity and maintaining the status of the United States as a worldwide leader in science and technology throughout the decades to come, and to give future generations a greater opportunity to achieve the American Dream. Therefore, I urge my colleagues to join me in supporting the passage of this important legislation.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1½ minutes to our example of the benefits of STEM education, the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. I thank the chairman.

Madam Speaker, for decades, it's been clear that our investments in scientific research and education underwrite our national prosperity, yet we've continued to underinvest in these economic drivers. The National Academy issued a call for action 5 years ago with ''Rising Above the Gathering Storm,'' and Congress responded by holding a number of national town meetings arranged by then-Minority Leader Pelosi and then passing the America COMPETES Act under the chairmanship of Chairman GORDON. That legislation is now set to expire, and the National Academies has issued an update on our progress. It is an ominous warning. It says bluntly: ''Our Nation's outlook has worsened.''

Now, as a Member who has conducted NSF-funded research and who continually argues that our economic health depends on investment and research, I would have preferred the more robust funding authorization levels passed by this House earlier this year. However, this legislation does maintain a 10-year doubling path for funding for our basic research agencies.

I am especially pleased that the bill requires the development of a comprehensive national competitiveness and innovation strategy, a provision I wrote. The nations that are outcompeting us already have national innovation strategies in place. We should too. To guarantee a secure economic future for our children and in our Nation, we must not fail to provide robust funding for the programs in this legislation.

I want to commend Chairman GORDON for writing and taking action on this legislation. It is another part of a good legacy of his distinguished career.

Madam Speaker, I rise today in support of the America COMPETES Reauthorization Act of 2010 (H.R 5116). Our investments in scientific research and education underwrite our national prosperity and success. Economists attribute over half of the growth in our gross domestic product (GDP) since World War II to progress in science and technology. Yet for decades, we have underinvested in our nation's tools for advancing innovation and competitiveness. In 2005, the National Academies issued a call for action in the Rising Above the Gathering Storm report. Two years later, following a series of national town halls arranged by the then Majority Leader PELOSI, Congress responded by implementing many of the report's recommendations in the America COMPETES Act.

Yet now we are faced with the impending expiration of the COMPETES Act, and the National Academies has released an update on our progress since the original Rising Above the Gathering Storm report. It tells us that we have not done enough. It says bluntly, ''Our nation's outlook has worsened.'' Other countries are implementing many of the changes suggested five years ago while we continue to hold back on the necessary investments to rebuild, restructure, and renew our national innovation infrastructure. The reauthorization of the America COMPETES Act is essential if we are to maintain our competitive edge in the global economy.

Basic research is a powerful source of new and unexpected discoveries that can transform our economy. While I would have preferred the more robust funding authorization levels passed by the House earlier this year, this legislation maintains a 10-year doubling path for funding at our nation's basic research agencies—the National Science Foundation (NSF), the National Institutes of Standards and Technology (NIST), and the Department of Energy's Office of Science. These funds support fundamental research in every discipline, maintain our national laboratories, and provide vital training for the next generation of scientists and engineers. The dividends from our investments in research and development are the breakthroughs that yield new industries, drive job growth, and sustain our future economic and technological competitiveness.

The America COMPETES Reauthorization Act includes a number of new programs and initiatives to foster innovation. The Regional Innovation Program will help create and expand science parks and Regional Innovation Clusters to leverage collaboration between businesses, academic institutions, and other participants to facilitate the transfer of technologies from the laboratory to the commercial sector. The Office of Innovation and Entrepreneurship at the Department of Commerce will accelerate the commercialization of research and development by identifying ways to overcome existing barriers and providing access to relevant data and technical assistance. The legislation authorizes the Partnerships for Innovation program to help move research out of the lab and into the marketplace by strengthening ties between institutions of higher education and private sector entities.

Additional assistance for manufacturers and other businesses would promote the adoption of new technologies and improve productivity. The legislation requires NSF to support research in transformative advances in manufacturing, and it ensures that the Manufacturing Extension Partnership (MEP) program will inform regional community colleges of the skill sets needed by local manufacturers. A newly established Innovative Services Initiative will assist small- and medium-sized manufacturers in implementing energy and waste reduction technologies, including renewable energy systems. A loan guarantee program will allow manufacturers to access capital for the installation of innovative technologies and processes that will help increase their efficiency and maintain their competitiveness. A new interagency committee under the National Science and Technology Council will establish goals and coordinate federal programs in advanced manufacturing research and development.

To preserve our leadership in scientific and technical fields and strengthen our competitiveness in the twenty-first century economy, the U.S. must continue to produce the world's best scientists, and we must ensure that every student is exposed to the fundamentals of science, technology, engineering, and math, STEM. The America COMPETES Reauthorization Act will establish an interagency committee to coordinate federal STEM education programs and report to Congress annually on implementation of the STEM education strategic plan. Updates to the NSF's Robert Noyce Scholarship program will allow more schools to participate and more qualified STEM educators to reach high-need schools. Undergraduates will have more opportunities to participate in research, and support for graduate students will be strengthened. Women and minorities remain underrepresented in STEM fields, and this legislation continues programs to help expand the STEM talent pool and increase the diversity of our nation's future scientists.

In the energy field, this legislation reauthorizes programs at the Department of Energy's Office of Science, which is the nation's largest supporter of physical sciences research. In addition, the reauthorization of the Advanced Research Projects agency for Energy, ARPA–E, which is modeled on the successful Defense Advanced Research Projects Agency, DARPA, will help us pursue high-risk, high-reward energy technology develop that might not receive support otherwise.

Finally, I am pleased that this legislation incorporates two provisions that I offered and the House passed when it considered a previous version of this bill. The first requires the working group responsible for coordinating policies related to the dissemination and long-term stewardship of unclassified federally funded research to take into consideration the importance of peer-review and the role of scientific publishers in the peer-review process.

The second requires the Secretary of Commerce to prepare a comprehensive national competitiveness and innovation strategy. For decades, U.S. leadership in science, technology, engineering, and innovation was unquestionable. But we cannot pretend this is a given. In 2009, the Information Technology and Innovation Foundation found that among 40 major nations or regions, the U.S. ranks sixth in overall innovation and competitiveness. More importantly, over the last decade, every one of our competitors has improved their innovation capacity faster than us. Each of the five nations ranked by ITIF as ''out-competing'' the U.S. already has a national competitiveness or innovation strategy in place. All together, at least thirty other countries have implemented plans to boost their economic competitiveness through innovation and technological development. The United States has yet to put forward a similarly comprehensive roadmap for success. Our competitors are making plans to grow their economies by competing in the global marketplace. We should be too.

The America COMPETES Reauthorization Act makes long overdue investments in the foundations of our national innovation system. It will create jobs in both the short- and long-term, support manufacturers and businesses in commercializing new technologies, help us pursue a clean energy economy, improve STEM education, and strengthen our international competitiveness. Yet authorizing the programs in this legislation is only the first step in keeping the United States competitive. To guarantee a secure economic future for our children and for our nation, we must not fail to provide robust funding for these programs. Even as we face budgetary challenges and political pressure, we must ensure that our scientists, engineers, innovators, and entrepreneurs have the tools and resources they need to renew our economy and help us truly rise above the gathering storm. I commend the United States Senate for taking action on this bill, and I urge my colleagues to support this important piece of legislation.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to our great majority leader and my great friend, Steny Hoyer.

The SPEAKER pro tempore. The gentleman from Maryland is recognized.

Mr. HOYER. Thank you very much, Speaker Halvorson. I appreciate your presiding over this historic piece of legislation.

I want to thank my friend BART GORDON. Chairman GORDON has been an extraordinary leader of this committee, an extraordinary member of the Energy and Commerce Committee; and in both of those venues he has focused on making sure that America could in fact compete and compete successfully and be the great Nation it has been, is now, and will continue to be as long as we keep investing in that which grows an economy—education, science, mathematics and engineering.

I know that he has worked with some of the great industrial leaders of our Nation on this legislation. Mr. Augustine comes to mind. We're very proud of him in Maryland.

But I want you to know how proud I am of BART GORDON. He said that I was one of his close friends. I think BART GORDON is one of my closest friends, not just in Congress, but in life. He and I have been here for a long time together.

The good news is the ranking—used to be Democrat, now Republican—RALPH HALL, is also a very close and dear friend of mine whom I have known all of my service here. He and I came together in the same class. He is a very good friend of Bob Slagle, who is a good friend of mine as well, and I want to thank him for his service to our country.

The America COMPETES Act expands support for research and development, helping the United States to remain the world's innovation leader. It creates jobs for the short-term and lays a foundation for long-term prosperity. That is its key, of course. And it is an important part of the Make It In America agenda, a series of important bills designed to help America regain its manufacturing strength.

Let me say just a word about Make It In America. We heard a lot about made in America, things that were made yesterday in America, things that we did in the past. Make It In America is about what we are going to do in the future.

Make It In America is a non-ideological, non-party, nonpartisan premise; and that premise is shared widely by the American public: that if we are going to be successful in the future and continue to grow our economy, it is going to be in part because we make it in America; we make things in America, we manufacture things in America, we grow it in America, and we sell it abroad. Our products, whether they be hard products or soft products, we sell them throughout the world.

America is the innovative center of the world, one of the enterprising nations of the world. We invent things, innovate and bring to scale. Strike that. We don't bring them to scale often enough.

Andy Grove, who was one of the cofounders of Intel, wrote an excellent article in the New Yorker. I tell my friends on the Republican side and on the Democratic side, this is an issue that can bring us together to make America better, to grow America, to provide the kinds of jobs that Americans need.

Make It In America not only means manufacturing in America, but that we make it, that we succeed, that people believe and have the confidence that there will be an American economy which will provide them with jobs and they will be able to provide for themselves and their families. This is a significant step in making sure that America makes it in America.

One of the things that Andy Grove said in his article in the New Yorker was that the problem we have is innovation, invention, enterprise exists here more than any other place in the world; but what we are doing is we are inventing, innovating and enterprising, and then we are taking it overseas to take it to scale, to manufacture it.

The Kindle, I bought a Kindle for my grandson last Christmas, about $185. About 40 to 45 of those dollars are U.S. The rest is overseas. Andy Grove's premise is if we do that, what is essentially going to happen over the years is the innovators and the ''enterprisers'' and the inventors are going to follow where we're making it, whether it's in China or any other place. America, we cannot let that happen. This bill is a critical step in ensuring America's prosperity and job creating capacity in the long term.

BART GORDON, congratulations to you. You will leave here in a few days. You will not be a Member of the Congress of the United States. You will never leave here in the sense you will always be in our hearts, and you are going to be on this floor, and we're going to see you regularly. But you will leave an extraordinary legacy for your country for decades and a century to come in this bill.

The bill establishes innovative technology and Federal loan guarantees for small and medium-sized manufacturers. Make It In America. Those loans will help American businesses respond to the needs of a changing economy, increase productivity, and keep pace with overseas competition.

Further, the COMPETES Act makes important investments in science, technology, engineering and math, as I said earlier, because helping our children excel in these fields is absolutely crucial to our economic competitiveness.

□ 1440

Finally, the bill strengthens the crucial national Science Foundation, which funds cutting-edge research in fields from computer science and mathematics to genomics. That's our future. America does it well. Let's do it here. Let's make sure that we're investing so that that will be the future as well as the present.

Federal support for research and innovation is one of the best investments we can make. Federal support helped create GPS, the computer mouse, computer-aided design, and the Internet; and there's no telling the ways in which it might shape our lives in the years to come. But, surely, there is no doubt that shape it, it will. And that's why we must invest. I urge my colleagues to boost American innovation by supporting this bill.

I end again as I started, by congratulating BART GORDON, my good friend, an individual who's given so much to his country for so long, an individual that makes us proud to be his colleague and who has given added luster to service in this House by his own service.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, we sometimes throw the term ''friend'' around here a lot. I do thank very much the majority leader for his friendship.

I yield 1½ minutes to the cochair of the New Dems, who are our leaders in innovation policy, the gentleman from Wisconsin, Mr. RON KIND.

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

Mr. KIND. Madam Speaker, as one of the co-chairs of the New Democratic Coalition, I rise in strong support of the reauthorization of the America COMPETES Act and commend the chairman of the Science Committee, our good friend and colleague, Mr. GORDON, for his tenacious focus on making sure that America COMPETES gets reauthorized in this session of Congress and working with the Senate in the waning days of this session to get it done. And we're sorely going to miss his leadership on this subject, as well as the leadership of our colleague from the State of Michigan (Mr. EHLERS), who has given tremendous guidance on what it means for the United States to remain the most innovative and creative Nation in the world.

And that's what America COMPETES is all about. It's answering the question of whether or not we will remain the most innovative and on the cutting edge of scientific, medical, technological, and manufacturing discoveries and breakthroughs or whether we will continue our slide in second-rate status compared to other nations in the investments that we are seeing taking place overseas.

It builds on seminal studies by the National Academy of Sciences' ''Rising Above the Gathering Storm,'' and even before that, the John Glenn Commission, ''Before it's Too Late,'' warning us of the peril of losing our innovation and competitiveness if we continue to underinvest in those crucial STEM studies of science, technology, engineering, and math, or the investments we have to make in basic and applied research, which we accomplish in this bill through the National Science Foundation; National Institute of Science and Technology; the ARPA–E program at the Department of Energy; new programs now at NOAA and NASA; and now directing the Department of Commerce to come up after 1 year with an actionable plan of how all this comes together.

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

Mr. HALL of Texas. I yield the gentleman 2 minutes.

Mr. KIND. I thank my colleague for yielding me the time.

It really speaks to the question many Americans have on their minds as we continue our slow emergence of the worse economic recession since the Great Depression, and that is where are we going as a Nation economically and how are we going to get there. America COMPETES Act is a part of that equation of not only spurring the innovation that we need in this country, but helping to make sure that we make those products in this country, along with the good-paying jobs that come from it.

Will this be the end of the innovation agenda? I think not. But it's an important step forward—one that received huge bipartisan support in the previous Congress with 357 of our colleagues supporting the original authorization of America COMPETES.

I commend former President Bush and current President Obama for recognizing the need for this type of legislation and all of the members on the Science and Education Committee that had a tremendous say in the product that's before us today. It's worthy of our support; but, more importantly, it's worthy of a great Nation and a great economy that we can build upon.

I encourage my colleagues to support the America COMPETES reauthorization and the work that we have before us.

Mr. GORDON of Tennessee. Madam Speaker, may I inquire how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Tennessee has 3½ minutes remaining.

Mr. GORDON of Tennessee. Madam Speaker, on many occasions I have

heard speaker NANCY PELOSI talk about the future of our Nation. And when she talks about the future of our Nation, she says there's three things we need to do: science, science, science. She believes it. She has led us in that direction.

I yield 1 minute to the Speaker of the House of Representatives, NANCY PELOSI.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding and for his kind words. More especially, I thank him for his great leadership. Few people who have served in this Congress and outside the Congress have done more to promote that ''science, science, science'' agenda than BART GORDON.

Sadly, for Mr. GORDON, this will be the last bill that he will bring to the floor. I want to take the occasion to thank him for his tremendous leadership as chair of the Science and Technology Committee and for being a leader on these issues. When the report came out about the gathering storm, he was the first to say we need to not only respond to it, but he had already taken initiatives, recognizing what would be in that report, seeing what was happening to science, technology, engineering, math, and all the rest of it in our country. His departure from the Congress is a loss for us, but I know he takes with him this passion that he has for science. It is something that has served our country well in the Congress, and I know he will continue to do so outside the Congress.

So, Mr. GORDON, thank you for your tremendous leadership. I know I speak for everyone here when I say it is an honor to call you colleague, and that today would be a day, toward the end of the session, that we would be taking up your bill—this is your bill, Mr. Chairman.

On these occasions I am reminded, Madam Speaker, that nearly 50 years ago, in launching the initiative to send a man to the Moon and back safely within 10 years, President Kennedy summed up America's common commitment to innovation and competitiveness when he said, ''The vows of this Nation can be fulfilled only if we are first, and therefore we intend to be first. Our leadership in science and in industry, our hopes for peace and security, our obligations to ourselves, as well as others, all require us to make this effort.''

Since then, Americans have lived up to those words. Science and technological innovation have formed the backbone of our progress as a people and our prosperity as a Nation. And today we have the opportunity to play one more part in that same tradition to support the COMPETES Act, to reaffirm our leadership in science and technology, to keep America first.

Again, few have done more for this Congress than Chairman BART GORDON, who recognized the urgency of this challenge early on and has never stopped fighting to keep science and technology at the top of our agenda. And to the distinguished ranking member, one of the beauties of this agenda, this innovation agenda, is there's really nothing partisan about it. It isn't ideological. It's scientific. It is about keeping America number one and using the best resources technologically in our country to have us be competitive in the world economy.

In acting to update and extend the COMPETES Act, we will spur innovation, invest in cutting-edge research, modernize manufacturing, and increase opportunity. You know the provisions. Others have spoken to them. The gentleman from Wisconsin (Mr. KIND) has talked about the importance of the STEM—education, science, technology, engineering and math—and how important that is not only to the fulfillment of our students but to competitiveness internationally and the success of our economy.

With this bill, we will lay the foundation for new industries that provide good jobs for our workers; that open new markets for our American products; that offer more students, more young people, and entrepreneurs a better chance to live out the American Dream.

□ 1450

Simply put, we will continue to ''rise above the gathering storm'' and keep America number one.

The COMPETES Act is a central component of our innovation agenda, rolled out by Democrats 5 years ago to ensure our Nation's economic competitiveness around the globe and double basic research funding.

Yes, as has been mentioned, the COMPETES Act was signed by President Bush and now will be signed by President Obama; but I wish to acknowledge that it was only when we got into the Recovery Act that we were able to get the substantial funding to move forward with these initiatives. We had a little downpayment before that, but we got serious about our commitment in the Recovery Act.

As part of that effort, again, we passed the Recovery Act, investing $17 billion for basic research and $19 billion to promote the adoption of health IT. We dedicated $11 billion to improve our smart grid capabilities and provided more than $7 billion to expand broadband access nationwide. It is very important for us to do so in rural areas. Through a series of actions, the Democrat-led Congress has extended broadband to rural and underserved areas, invested in clean energy jobs and energy independence, and helped spur the development of new technologies.

The America COMPETES Act builds on that record of achievement. This bill is about good-paying jobs for American workers, strong American leadership in the global economy, an investment in America's students, and long-term prosperity for America's families and businesses.

As I have said, as was mentioned by Mr. KIND, this bill passed the first time with overwhelming bipartisan support. I think the majority of Republicans voted for the bill the first time it was put forth, and now we are reauthorizing it.

What we are doing today is about echoing President Kennedy's call once more to fulfill the vows of our Nation, to make the effort to strengthen America's future, to be first. In voting ''aye'' today, we can come together for innovation, for competitiveness, and for our prosperity. I urge all of my colleagues to support the reauthorization of the America COMPETES Act.

As I close, I once again want to salute Chairman BART GORDON for his tremendous, tremendous leadership. He has a wealth of knowledge, a depth of understanding, a boundless commitment to the future.

Thank you, Mr. Chairman.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Madam Speaker, I rise today to urge my colleagues to support the Senate amendment to H.R. 5116, the America COMPETES Act.

Chairman BART GORDON and Congressman RALPH HALL, I commend you for bringing this legislation to the floor.

More than ever, our Nation must invest in the scientific and technological building blocks that bolster American competitiveness in a 21st century global economy. The America COMPETES Reauthorization Act of 2010 achieves this and more by fostering innovation, supporting manufacturers and industry, preparing a STEM workforce, and creating jobs. This bill takes bold steps in broadening the participation of underrepresented minorities and women in the STEM fields.

I want to recognize Representatives EDDIE BERNICE JOHNSON, BEN RAY LUJÁN, SILVESTRE REYES, the Diversity and Innovation Caucus, and other members of the Tri-Caucus for their outstanding leadership in championing diversity issues in the reauthorization of this act.

As Subcommittee chairman for Higher Education, Lifelong Learning, and Competitiveness, I am pleased that America COMPETES will more fully integrate our Nation's minority-serving institutions into research partnerships and Federal programs and promote the inclusion and success of minorities in the STEM fields. Establishing strong regional university and industry partnerships in research and innovation at the National Science Foundation will spur economic growth and connect students to high-tech jobs.

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

Mr. HALL of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Texas.

Mr. HINOJOSA. This bill will expand undergraduate research opportunities

for women, minorities, and persons with disabilities at the National Science Foundation. Hands-on learning experiences are key to improving the recruitment and retention of underrepresented students in the STEM fields and in preparing a new generation of scientists who will contribute to our Nation's technological innovation and competitiveness.

This bill complements our work on the Student Aid and Fiscal Responsibility Act, known as SAFRA, enacted as part of the Health Care and Education Reconciliation Act of 2010, and our efforts to improve science and math literacy in our Nation's public schools.

I strongly urge my colleagues to support the Senate amendment to H.R. 5116.

Again, I compliment our chairman, BART GORDON, for his tremendous leadership.

Mr. HALL of Texas. I yield myself the balance of my time.

Madam Speaker, I reiterate that I remain committed to the underlying goals of the America COMPETES Act, and believe that we ought to continue to prioritize investments in basic science, technology, engineering, and mathematics—STEM research and development.

These long-term investments, coupled with policies that reduce tax burdens, streamline Federal regulations, and balance the Federal budget are necessary steps for our Nation to remain competitive in the global marketplace. I hope my colleagues will join with me in seeking to do just that when the 112th Congress convenes.

In the meantime, I thank everybody involved; but for the reasons I have previously outlined, I must regretfully oppose this amendment.

I yield back the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, in closing, let me just once again thank the members and staff on a bicameral, bipartisan basis who have done so much to bring this excellent piece of legislation to the floor.

I doubt there has ever been a piece of legislation that has had as much outward support for the business community, the academic community, the scientific community. It is a good bill. It is going to help move our country forward.

Mr. GARAMENDI. Madam Speaker, I spoke on the House floor in strong support of the COMPETES Reauthorization. I wish to reinforce these comments. America is in a Global Race to innovate. COMPETES propels us forward, helping us win this race through smart investments. Improvements in science, technology, engineering, and mathematics education will result in an educated workforce, who will develop the technology of the future. A strengthening of our research capacity is inherently valuable and will pay huge dividends when this knowledge is leveraged towards technological development. COMPETES helps turn these lab bench discoveries into products that we can buy and sell on the market. By strengthening American manufacturing, COMPETES helps us to make it in America again. Improvements in R&D will grow America's economy and increase our ability to export our products around the world.

I express strong support for the COMPETES Reauthorization Act of 2010, H.R. 5116.

Mr. DINGELL. Madam Speaker, as a cosponsor of the America COMPETES Reauthorization Act, I rise today in strong support of this legislation, and I commend the United States Senate for passing this legislation before the end of 111th Congress. Today's consideration shows Congress's commitment to ensuring our children and grandchildren receive the education they need to compete in a global marketplace in the 21st Century.

While our country and our children have not lost the spirit of innovation and creativity, we have in recent years watched as our country has fallen woefully behind in educating our children. Passage of the America COMPETES Reauthorization Act will help to reverse this trend by making the strong investments necessary in research, education and manufacturing.

This bipartisan legislation reauthorizes our basic research programs, making needed increased investments in the National Science Foundation, the Department of Energy Office of Science, and the National Institute of Standards and Technology and laying the groundwork for doubling the authorized funding levels for these programs. Funding through these programs has been critical to hundreds of the faculty, staff, scientists and investigators in my district who rely on opportunities from these agencies to support their research. America COMPETES also reauthorizes the Advanced Research Projects Agency for Energy, which has made great efforts at developing the energy technology of the future.

The America COMPETES Reauthorization Act investment in research cannot be fulfilled without a renewed focus in our education system on STEM education. H.R. 5116 will coordinate STEM education across the federal government to increase and bolster effective programs, increase graduate fellowships at NSF and DOE, support research and internship opportunities for high school and undergraduate students in STEM fields, and encourage students to enter into the education system as teachers to continue to build the next generation of scientists, educators, and researchers.

And of particular importance to my district, the America COMPETES legislation will provide critically needed help to our small- and medium-sized manufacturers who have been hard hit by the financial downturn. In order to improve competitiveness and access to capital, America COMPETES will create a new program that will provide Innovative Technology Federal Loan Guarantees for these manufacturers. To help manufacturers modernize and green their manufacturing practices, this legislation directs NIST to develop sustainability metrics and practices for manufacturers. To ensure manufacturers have a well-trained workforce, this legislation directs NSF to award competitive grants to strengthen and expand scientific and technical education and training in advanced manufacturing practices. To continue the success of the Manufacturing Extension Partnership program centers, this legislation will also reduce the cost share contribution, ensuring access to invaluable assistance that increases technological capabilities, institutes green or lean manufacturing techniques, and promotes increased sales.

Madam Speaker, I believe strongly that it is our moral duty to prepare our children and grandchildren with the education and training necessary to be successful in a highly competitive, and increasingly globalized marketplace. By allowing our education system to fall behind our peers, we have slipped in this duty. The America COMPETES legislation will once again put us on the path towards a strengthened education system, and a talented and competitive workforce that will continue the high-risk, high-reward research, innovations and technology development that this country is renowned for. The America COMPETES Reauthorization Act will allow the United States to truly compete with our neighbors abroad, which is why I urge my colleagues to vote "yes".

Mr. COSTELLO. Madam Speaker, I rise today in support of H.R. 5116, the America COMPETES Reauthorization Act of 2010.

I commend Chairman GORDON for his leadership in developing this important legislation, passing it through the House, and working with our colleagues in the Senate to move the measure forward.

In 2005, the National Academy of Sciences (NAS) released its landmark report, Rising Above the Gathering Storm, which recommended Congress and the administration more heavily invest in science education, research, and technology to preserve the U.S. role as the world leader in innovation.

In response to this report, Congress passed the America COMPETES Act with bipartisan support in 2007.

In the three years since COMPETES was signed into law, we have made great strides in innovation, education, and technology.

However, a 2010 follow-up report, Rising Above the Gathering Storm, Revisited, clearly indicates the U.S. remains at risk of falling behind in developing and patenting new technology; publishing cutting edge research; training the next generation of scientists and engineers; and maintaining the most competitive workforce in the world.

H.R. 5116 builds upon the accomplishments of the 2007 America COMPETES in a fiscally responsible manner.

The bill reauthorizes ongoing federal research and development programs for three years at a lower authorization level than what the House passed in May, creates opportunities for innovation in the private sector through programs like ARPA–E, and trains the most innovative, competitive workforce in the world.

In addition, I am pleased the bill contains important investments in two STEM education programs.

First, the bill invests in community colleges and other two-year institutions of higher education by building connections between community colleges and Manufacturing Extension Partnerships, other institutions of higher education, research institutions, and regional innovation hubs. These investments will ensure that students have the job training necessary to secure good-paying jobs in their communities and manufacturers have a workforce with the right skill set to promote innovation.

Second, the bill ensures the U.S. Department of Energy (DOE) STEM education programs mirror the important research being conducted by the agency on carbon capture

and sequestration (CCS) technology, the future of coal-powered energy; which is the nation's most abundant and affordable energy source and a vital part of Illinois' economy. Including CCS in DOE's STEM education programming will ensure that we continue to expand deployment of this important technology and train a new generation of CCS scientists.

I urge my colleagues to support the Senate Amendment to H.R. 5116.

Mr. HONDA. Madam Speaker, I regret that illness prevents me from casting my vote in favor of H.R. 5116 today, but I would like to express my strong support for H.R 5116, America COMPETES Reauthorization Act of 2010, for the record.

I commend Chairman BART GORDON and the other members of the Science and Technology Committee, on which I am proud to have once served, for the hard work and thoughtful consideration that went into this bill.

The America COMPETES Act of 2007 significantly bolstered American innovation, the most fundamental hope for sustainable economic growth and competitiveness in the United States and a critical driver of the economy in my Silicon Valley district. It helped drive new research and its commercialization, encouraged the creation of a more dynamic business environment, and made improvements to science, technology, engineering and math (STEM) education that are important for our nation's long term economic health.

It is critical that we sustain proper support for scientific research and STEM education, or our ability to compete in the global economy will be put in jeopardy. As the Business Roundtable noted in its Roadmap for Growth, a new report released last week, investing in scientific research and math and science education will create sustained, long-term economic competiveness and growth. That is why I am proud to support H.R. 5116, which authorizes those much needed investments.

Although the Senate's amendment to H.R. 5116 is a significantly trimmed down version of the House bill, it maintains the key principles of investment and innovation, ensuring America remains competitive in the 21st century global economy.

I am pleased that the bill includes provisions to ensure coordination of federal STEM education activities by elevating an existing committee under the National Science and Technology (NSTC). Providing this coordinating mechanism for the federal STEM education programs is long overdue.

According to the Academic Competitiveness Council's (ACC) report, in 2006 the U.S. sponsored 105 STEM education programs at more than a dozen different federal agencies. These programs devoted approximately $3.12 billion to STEM education activities spanning prekindergarten through postgraduate education and outreach. The report notes that many of these agencies do not share information or work collaboratively on similar programs, demonstrating a need for better coordination.

The STEM education coordination provisions of this bill are similar to those included in my own bill, the Enhancing Science, Technology, Engineering, and Mathematics Education (E–STEM) Act, H.R. 2710. Both bills seek to ensure that the various agencies involved in STEM education efforts are aware of what is being done and what has already been done elsewhere so agencies can strategically invest in programs and activities.

Again, I congratulate the Science and Technology Committee and Chairman GORDON for their work on this bill. I urge my colleagues to support this important legislation to ensure that our nation leads the world in innovation and science and technology.

Mr. VAN HOLLEN. Madam Speaker, I rise to support the America COMPETES Reauthorization Act.

As the United States faces increasing competition in the global economy, we will only maintain our advantage by fostering our ability to innovate. America COMPETES makes the investments necessary to ensure that we remain at the cutting edge of research and development.

The America COMPETES Reauthorization Act is a comprehensive approach to invest in education, research, and small business to grow America's innovation economy. By providing resources for basic research, facilitating the use of new technologies by American manufacturers, and training a new generation of science, technology, math, and engineering (STEM) workers, we can create good, sustainable jobs at home and ensure that the United States remains competitive.

The America COMPETES Reauthorization Act creates a path to double basic research funding at NSF, NIST, and DOE's Office of Science over the next ten years. It supports important programs to expand American energy technology and fosters regional innovation clusters and research parks for economic development across the country. And it coordinates STEM education activities across the Federal Government so we can focus resources on our most effective programs.

Madam Speaker, every dollar that we invest in science and technology pays dividends in economic growth and ensures that the United States remains at the forefront of discovery. I thank Chairman GORDON for his work on this issue and urge my colleagues to vote to pass this bill.

Mr. GORDON of Tennessee. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

Pursuant to clause 1(c) of rule XIX, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested.

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

APPOINTMENT—NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

The SPEAKER pro tempore (Ms. BALDWIN). Pursuant to section 306(k) of the Public Health Service Act (42 U.S.C. 242k), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following member to the National Committee on Vital and Health Statistics for a term of 4 years:

Dr. Vickie M. Mays, Los Angeles, California.

APPOINTMENTS—COMMISSION ON KEY NATIONAL INDICATORS

The SPEAKER pro tempore. Pursuant to section 5605 of the Patient Protection and Affordable Care Act (P.L. 111–148), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following members to the Commission on Key National Indicators:

Dr. Stephen Heintz, New York, New York,

and in addition,

Dr. Marta Tienda, Princeton, New Jersey.

□ 1500

PERMISSION TO POSTPONE FURTHER PROCEEDINGS ON CERTAIN MEASURES

Mr. CUELLAR. Madam Speaker, I ask unanimous consent that the Speaker may postpone further proceedings on the following measures as though under clause 8(a)(1)(A) of rule XX: motion to concur in Senate amendment to H.R. 2142, and motion to concur in Senate amendments to H.R. 2751.

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

There was no objection.

GPRA MODERNIZATION ACT OF 2010

Mr. CUELLAR. Madam Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''GPRA Modernization Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Strategic planning amendments.
Sec. 3. Performance planning amendments.
Sec. 4. Performance reporting amendments.
Sec. 5. Federal Government and agency priority goals.
Sec. 6. Quarterly priority progress reviews and use of performance information.
Sec. 7. Transparency of Federal Government programs, priority goals, and results.
Sec. 8. Agency Chief Operating Officers.

Sec. 9. Agency Performance Improvement Officers and the Performance Improvement Council.
Sec. 10. Format of performance plans and reports.
Sec. 11. Reducing duplicative and outdated agency reporting.
Sec. 12. Performance management skills and competencies.
Sec. 13. Technical and conforming amendments.
Sec. 14. Implementation of this Act.
Sec. 15. Congressional oversight and legislation.

SEC. 2. STRATEGIC PLANNING AMENDMENTS.

Chapter 3 of title 5, United States Code, is amended by striking section 306 and inserting the following:

"§ 306. Agency strategic plans

''(a) Not later than the first Monday in February of any year following the year in which the term of the President commences under section 101 of title 3, the head of each agency shall make available on the public website of the agency a strategic plan and notify the President and Congress of its availability. Such plan shall contain—

''(1) a comprehensive mission statement covering the major functions and operations of the agency;

''(2) general goals and objectives, including outcome-oriented goals, for the major functions and operations of the agency;

''(3) a description of how any goals and objectives contribute to the Federal Government priority goals required by section 1120(a) of title 31;

''(4) a description of how the goals and objectives are to be achieved, including—

''(A) a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives; and

''(B) a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals;

''(5) a description of how the goals and objectives incorporate views and suggestions obtained through congressional consultations required under subsection (d);

''(6) a description of how the performance goals provided in the plan required by section 1115(a) of title 31, including the agency priority goals required by section 1120(b) of title 31, if applicable, contribute to the general goals and objectives in the strategic plan;

''(7) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

''(8) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations to be conducted.

''(b) The strategic plan shall cover a period of not less than 4 years following the fiscal year in which the plan is submitted. As needed, the head of the agency may make adjustments to the strategic plan to reflect significant changes in the environment in which the agency is operating, with appropriate notification of Congress.

''(c) The performance plan required by section 1115(b) of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

''(d) When developing or making adjustments to a strategic plan, the agency shall consult periodically with the Congress, including majority and minority views from the appropriate authorizing, appropriations, and oversight committees, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan. The agency shall consult with the appropriate committees of Congress at least once every 2 years.

''(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

''(f) For purposes of this section the term 'agency' means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the Government Accountability Office, the United States Postal Service, and the Postal Regulatory Commission.''.

SEC. 3. PERFORMANCE PLANNING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1115 and inserting the following:

"§ 1115. Federal Government and agency performance plans

''(a) FEDERAL GOVERNMENT PERFORMANCE PLANS.—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

''(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

''(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

''(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

''(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

''(A) overall progress toward each Federal Government performance goal; and

''(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph (2);

''(5) establish clearly defined quarterly milestones; and

''(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such challenges, including relevant performance goals, performance indicators, and milestones.

''(b) AGENCY PERFORMANCE PLANS.—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

''(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

''(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

''(3) describe how the performance goals contribute to—

''(A) the general goals and objectives established in the agency's strategic plan required by section 306(a)(2) of title 5; and

''(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

''(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

''(5) provide a description of how the performance goals are to be achieved, including—

''(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

''(B) clearly defined milestones;

''(C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;

''(D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and

''(E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;

''(6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;

''(7) provide a basis for comparing actual program results with the established performance goals;

''(8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

''(A) the means to be used to verify and validate measured values;

''(B) the sources for the data;

''(C) the level of accuracy required for the intended use of the data;

''(D) any limitations to the data at the required level of accuracy; and

''(E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

''(9) describe major management challenges the agency faces and identify—

''(A) planned actions to address such challenges;

''(B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and

''(C) the agency official responsible for resolving such challenges; and

''(10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.

''(c) ALTERNATIVE FORM.—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

''(1) include separate descriptive statements of—

''(A)(i) a minimally effective program; and

''(ii) a successful program; or

''(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

''(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

''(d) TREATMENT OF PROGRAM ACTIVITIES.—For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

''(e) APPENDIX.—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

''(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

''(2) is properly classified pursuant to such Executive order.

''(f) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

''(g) CHIEF HUMAN CAPITAL OFFICERS.—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

''(h) DEFINITIONS.—For purposes of this section and sections 1116 through 1125, and sections 9703 and 9704, the term—

''(1) 'agency' has the same meaning as such term is defined under section 306(f) of title 5;

''(2) 'crosscutting' means across organizational (such as agency) boundaries;

''(3) 'customer service measure' means an assessment of service delivery to a customer, client, citizen, or other recipient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

''(4) 'efficiency measure' means a ratio of a program activity's inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the desired results of a program);

''(5) 'major management challenge' means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

''(6) 'milestone' means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

''(7) 'outcome measure' means an assessment of the results of a program activity compared to its intended purpose;

''(8) 'output measure' means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

''(9) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

''(10) 'performance indicator' means a particular value or characteristic used to measure output or outcome;

''(11) 'program activity' means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

''(12) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.''.

SEC. 4. PERFORMANCE REPORTING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1116 and inserting the following:

''§ 1116. Agency performance reporting

''(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

''(b)(1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

''(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

''(c) Each update shall—

''(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

''(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

''(3) explain and describe where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

''(A) why the goal was not met;

''(B) those plans and schedules for achieving the established performance goal; and

''(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

''(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

''(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management;

''(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

''(A) the means used to verify and validate measured values;

''(B) the sources for the data;

''(C) the level of accuracy required for the intended use of the data;

''(D) any limitations to the data at the required level of accuracy; and

''(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and

''(7) include the summary findings of those program evaluations completed during the period covered by the update.

''(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

''(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

''(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

''(1) the head of the agency;

''(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

''(4) the Government Accountability Office.

''(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

''(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

''(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

''(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

''(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

''(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

''(1) reauthorization proposals for each program or activity that has not met performance goals;

''(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

''(3) planned executive actions or identification of the program for termination or reduction in the President's budget.''.

SEC. 5. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1119 the following:

''§ 1120. Federal Government and agency priority goals

''(a) FEDERAL GOVERNMENT PRIORITY GOALS.—

''(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the performance and management of the Federal Government. Such Federal Government priority goals shall include—

''(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

''(B) goals for management improvements needed across the Federal Government, including—

''(i) financial management;

''(ii) human capital management;

''(iii) information technology management;

''(iv) procurement and acquisition management; and

''(v) real property management;

''(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be updated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant

changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

''(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

''(A) the Committees on Appropriations of the Senate and the House of Representatives;

''(B) the Committees on the Budget of the Senate and the House of Representatives;

''(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(D) the Committee on Oversight and Government Reform of the House of Representatives;

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

''(F) the Committee on Ways and Means of the House of Representatives; and

''(G) any other committees as determined appropriate;

''(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

''(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

''(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

''(b) AGENCY PRIORITY GOALS.—

''(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

''(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

''(B) have ambitious targets that can be achieved within a 2-year period;

''(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

''(D) have interim quarterly targets for performance indicators if more frequent updates of actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

''(E) have clearly defined quarterly milestones.

''(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

''(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal Government and agency priority goals shall be performed only by Federal employees.''.

SEC. 6. QUARTERLY PRIORITY PROGRESS REVIEWS AND USE OF PERFORMANCE INFORMATION.

Chapter 11 of title 31, United States Code, is amended by adding after section 1120 (as added by section 5 of this Act) the following:

''§ 1121. Quarterly priority progress reviews and use of performance information

''(a) USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

''(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

''(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

''(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

''(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

''(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

''(b) AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support of the agency Performance Improvement Officer, shall—

''(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

''(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

''(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

''(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

''(5) for agency priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.''.

SEC. 7. TRANSPARENCY OF FEDERAL GOVERNMENT PROGRAMS, PRIORITY GOALS, AND RESULTS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1121 (as added by section 6 of this Act) the following:

''§ 1122. Transparency of programs, priority goals, and results

''(a) TRANSPARENCY OF AGENCY PROGRAMS.—

''(1) IN GENERAL.—Not later than October 1, 2012, the Office of Management and Budget shall—

''(A) ensure the effective operation of a single website;

''(B) at a minimum, update the website on a quarterly basis; and

''(C) include on the website information about each program identified by the agencies.

''(2) INFORMATION.—Information for each program described under paragraph (1) shall include—

''(A) an identification of how the agency defines the term 'program', consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

''(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

''(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

''(b) TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

''(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

''(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

''(3) a description of how each agency priority goal will be achieved, including—

''(A) the strategies and resources required to meet the priority goal;

''(B) clearly defined milestones;

''(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

''(D) how the agency is working with other agencies to achieve the goal; and

''(E) an identification of the agency official responsible for achieving the priority goal;

''(4) the performance indicators to be used in measuring or assessing progress;

''(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

''(A) the means used to verify and validate measured values;

''(B) the sources for the data;

''(C) the level of accuracy required for the intended use of the data;

''(D) any limitations to the data at the required level of accuracy; and

''(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

''(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

''(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

''(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

''(9) any prospects or strategies for performance improvement.

''(c) TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.—The Director of the Office of Management and Budget shall also make available on the website—

''(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

''(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

''(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

''(4) an identification of the lead Government official for each Federal Government performance goal;

''(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

''(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that

contribute to each Federal Government priority goal;

''(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

''(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

''(9) any prospects or strategies for performance improvement.

''(d) INFORMATION ON WEBSITE.—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.''.

SEC. 8. AGENCY CHIEF OPERATING OFFICERS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1122 (as added by section 7 of this Act) the following:

''§ 1123. Chief Operating Officers

''(a) ESTABLISHMENT.—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

''(b) FUNCTION.—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—

''(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

''(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

''(3) oversee agency-specific efforts to improve management functions within the agency and across Government; and

''(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency.''.

SEC. 9. AGENCY PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.

Chapter 11 of title 31, United States Code, is amended by adding after section 1123 (as added by section 8 of this Act) the following:

''§ 1124. Performance Improvement Officers and the Performance Improvement Council

''(a) PERFORMANCE IMPROVEMENT OFFICERS.—

''(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

''(2) FUNCTION.—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

''(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

''(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

''(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title 5, including the contributions of the agency to the Federal Government priority goals;

''(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

''(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

''(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

''(b) PERFORMANCE IMPROVEMENT COUNCIL.—

''(1) ESTABLISHMENT.—There is established a Performance Improvement Council, consisting of—

''(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

''(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

''(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

''(D) other individuals as determined appropriate by the chairperson.

''(2) FUNCTION.—The Performance Improvement Council shall—

''(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

''(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

''(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

''(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

''(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

''(F) coordinate with other interagency management councils;

''(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

''(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

''(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

''(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

''(3) SUPPORT.—

''(A) IN GENERAL.—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

''(B) PERSONNEL.—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.''.

SEC. 10. FORMAT OF PERFORMANCE PLANS AND REPORTS.

(a) SEARCHABLE, MACHINE-READABLE PLANS AND REPORTS.—For fiscal year 2012 and each fiscal year thereafter, each agency required to produce strategic plans, performance plans, and performance updates in accordance with the amendments made by this Act shall—

(1) not incur expenses for the printing of strategic plans, performance plans, and performance reports for release external to the agency, except when providing such documents to the Congress;

(2) produce such plans and reports in searchable, machine-readable formats; and

(3) make such plans and reports available on the website described under section 1122 of title 31, United States Code.

(b) WEB-BASED PERFORMANCE PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than June 1, 2012, the Director of the Office of Management and Budget shall issue guidance to agencies to provide concise and timely performance information for publication on the website described under section 1122 of title 31, United States Code, including, at a minimum, all requirements of sections 1115 and 1116 of title 31, United States Code, except for section 1115(e).

(2) HIGH-PRIORITY GOALS.—For agencies required to develop agency priority goals under section 1120(b) of title 31, United States Code, the performance information required under this section shall be merged with the existing information required under section 1122 of title 31, United States Code.

(3) CONSIDERATIONS.—In developing guidance under this subsection, the Director of the Office of Management and Budget shall take into consideration the experiences of agencies in making consolidated performance planning and reporting information available on the website as required under section 1122 of title 31, United States Code.

SEC. 11. REDUCING DUPLICATIVE AND OUTDATED AGENCY REPORTING.

(a) BUDGET CONTENTS.—Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating second paragraph (33) as paragraph (35); and

(2) by adding at the end the following:

''(37) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.''.

(b) ELIMINATION OF UNNECESSARY AGENCY REPORTING.—Chapter 11 of title 31, United States Code, is further amended by adding after section 1124 (as added by section 9 of this Act) the following:

''§ 1125. Elimination of unnecessary agency reporting

''(a) AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

''(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

''(2) analyze the list compiled under paragraph (1), identify which plans and reports are

outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

''(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

''(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

''(b) PLANS AND REPORTS.—

''(1) FIRST YEAR.—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10 percent of all plans and reports identified under subsection (a)(1).

''(2) SUBSEQUENT YEARS.—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

''(c) REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.''.

SEC. 12. PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.

(a) PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

(b) POSITION CLASSIFICATIONS.—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

(c) INCORPORATION INTO EXISTING AGENCY TRAINING.—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The table of contents for chapter 3 of title 5, United States Code, is amended by striking the item relating to section 306 and inserting the following:

''306. Agency strategic plans.''.

(b) The table of contents for chapter 11 of title 31, United States Code, is amended by striking the items relating to section 1115 and 1116 and inserting the following:

''1115. Federal Government and agency performance plans.

''1116. Agency performance reporting.''.

(c) The table of contents for chapter 11 of title 31, United States Code, is amended by adding at the end the following:

''1120. Federal Government and agency priority goals.

''1121. Quarterly priority progress reviews and use of performance information.

''1122. Transparency of programs, priority goals, and results.

''1123. Chief Operating Officers.

''1124. Performance Improvement Officers and the Performance Improvement Council.

''1125. Elimination of unnecessary agency reporting.''.

SEC. 14. IMPLEMENTATION OF THIS ACT.

(a) INTERIM PLANNING AND REPORTING.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate with agencies to develop interim Federal Government priority goals and submit interim Federal Government performance plans consistent with the requirements of this Act beginning with the submission of the fiscal year 2013 Budget of the United States Government.

(2) REQUIREMENTS.—Each agency shall—

(A) not later than February 6, 2012, make adjustments to its strategic plan to make the plan consistent with the requirements of this Act;

(B) prepare and submit performance plans consistent with the requirements of this Act, including the identification of agency priority goals, beginning with the performance plan for fiscal year 2013; and

(C) make performance reporting updates consistent with the requirements of this Act beginning in fiscal year 2012.

(3) QUARTERLY REVIEWS.—The quarterly priority progress reviews required under this Act shall begin—

(A) with the first full quarter beginning on or after the date of enactment of this Act for agencies based on the agency priority goals contained in the Analytical Perspectives volume of the Fiscal Year 2011 Budget of the United States Government; and

(B) with the quarter ending June 30, 2012 for the interim Federal Government priority goals.

(b) GUIDANCE.—The Director of the Office of Management and Budget shall prepare guidance for agencies in carrying out the interim planning and reporting activities required under subsection (a), in addition to other guidance as required for implementation of this Act.

SEC. 15. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a goal of the Federal Government or an agency.

(b) GAO REVIEWS.—

(1) INTERIM PLANNING AND REPORTING EVALUATION.—Not later than June 30, 2013, the Comptroller General shall submit a report to Congress that includes—

(A) an evaluation of the implementation of the interim planning and reporting activities conducted under section 14 of this Act; and

(B) any recommendations for improving implementation of this Act as determined appropriate.

(2) IMPLEMENTATION EVALUATIONS.—

(A) IN GENERAL.—The Comptroller General shall evaluate the implementation of this Act subsequent to the interim planning and reporting activities evaluated in the report submitted to Congress under paragraph (1).

(B) AGENCY IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate how implementation of this Act is affecting performance management at the agencies described in section 901(b) of title 31, United States Code, including whether performance management is being used by those agencies to improve the efficiency and effectiveness of agency programs.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) a subsequent report on the evaluation under clause (i), not later than September 30, 2017.

(C) FEDERAL GOVERNMENT PLANNING AND REPORTING IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate the implementation of the Federal Government priority goals, Federal Government performance plans and related reporting required by this Act.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) subsequent reports on the evaluation under clause (i), not later than September 30, 2017 and every 4 years thereafter.

(D) RECOMMENDATIONS.—The Comptroller General shall include in the reports required by subparagraphs (B) and (C) any recommendations for improving implementation of this Act and for streamlining the planning and reporting requirements of the Government Performance and Results Act of 1993.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CUELLAR moves that the House concur in the Senate amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform.

The gentleman from Texas (Mr. CUELLAR) and the gentleman from California (Mr. ISSA) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Madam 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 Texas?

There was no objection.

Mr. CUELLAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act, will do just what the title of the bill says. This bill will make the Federal Government more effective, more efficient, and improve the performance of Federal agencies.

This bill is a sweeping move to increase transparency and accountability by requiring Federal agencies to establish performance goals that can be measured and reported to Congress and to taxpayers. No one can afford to waste money, especially not the government and especially not now. It's time that we put a new system in place to review the results of each Federal program and evaluate its effectiveness.

The message is simple: Better information yields better decisions. This legislation will help Congress invest in what works, fix what doesn't, and eliminate wasteful overlap. This will make our Federal Government more results-oriented.

This is a commonsense bill that received wide bipartisan support. The

Committee on Oversight and Government Reform approved H.R. 2142 by voice vote on May 20, 2010. The House passed the bill by voice vote on June 16, 2010, and the Senate amended the bill and passed it by unanimous consent on December 16, 2010.

H.R. 2142 modernizes the Government Performance and Results Act of 1993. We have learned a lot in the past 17 years. It is time to apply these lessons so that agencies and Congress have the information needed to make good decisions. H.R. 2142 improves the 1993 law by requiring agencies to identify ambitious goals and to perform frequent performance reviews. With this bill, we can hold agencies more accountable by requiring them to consider input from Congress and members of the public when developing program goals. The public can now have input for the first time. Just imagine that. The general public will have a say-so in developing Federal agency goals.

Some changes were made to the bill during consideration by the Senate, and I support those changes, which I believe will enhance and strengthen the bill. Under the Senate amendment, OMB is required to develop a Federal Government performance plan that addresses program efforts across agencies. OMB is also required to work with agencies to develop Federal program priority goals that cut across different agencies and measure progress toward meeting those goals. This will help agencies avoid duplicating efforts and become more efficient. Duplication and overlap at a time when so many Americans are struggling to make ends meet isn't just a waste of resources; it's shameful. The Senate amendment also establishes the position of chief operating officer in the 24 biggest agencies.

Key provisions for the bill approved in the House are still intact, such as the establishment of performance improvement officers at each agency and the establishment of the performance improvement council. These provisions codify an Executive order issued by President George W. Bush.

Also, as in the House-passed bill, OMB and agencies are required to improve the transparency of performance reviews by making the results available online.

Senator COBURN added an amendment making changes to the bill that requires for increasingly stringent requirements for agencies that do not meet performance goals, which can ultimately end up, for a nonperforming agency or program, with budget reduction or even elimination.

The Congressional Budget Office estimates that implementation of the bill, as amended by the Senate, will cost about $15 million a year. This bill does not have any mandatory spending requirements, and it does not violate PAYGO. Also, CBO, as you know, does not estimate the cost savings that would have been generated by this bill. Agencies will save money by identifying wasteful practices. Consolidating and eliminating unnecessary reporting will also save taxpayers' dollars.

H.R. 2142 will make the government more cost effective because it would require agencies to evaluate their performance. This will allow agencies to identify waste and inefficiencies and change what isn't working. This is what successful corporations in the private sector do regularly, and this is what the government should do also.

President Bush's top performance management official wrote in a letter supporting this legislation in a bipartisan way, ''I led performance improvement efforts during my tenure in the George W. Bush administration. Additionally, while a Republican staff member in the legislative branch, I oversaw agency efforts to measure and improve their performance. The provisions of this bill would have greatly enhanced these efforts had they been in place at the time.''

This is a timely, commonsense bill, and I urge all Members to join me in a bipartisan way in supporting this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I would ask the majority if they would provide us with that letter so we could review when it was written and be more educated.

Mr. CUELLAR. If the gentleman would yield, I would be happy to do that.

Mr. ISSA. I thank you.

Madam Speaker, Feliz Navidad, Merry Christmas, but today is Ground Hog Day. I know it is because we're getting the same bill we got last week. It looks the same. Matter of fact, it's so much the same that I recognized it from an earlier document, the President's budget. In his package on performance and management, the President had already determined to do pretty much what we're putting here.

Matter of fact, we're codifying in statute, plus throwing in $75 million of additional cost, what the President already was doing. We're not giving him anything that he doesn't already have authority for and is doing. Really what we're doing is simply allowing the President to say it's okay for me to spend $75 million more on what I already wanted to do; it's okay because I'm under this mandate of Congress. It's okay for this Congress to go sine die really talking about things they were accomplishing when this doesn't accomplish anything.

I will be voting against this because I don't want to spend $75 million doing what the President already put in his own document.

Madam Speaker, I would ask that this excerpt from the President's performance and management review to be placed in the RECORD.

7. DELIVERING HIGH-PERFORMANCE GOVERNMENT

For too long, Washington has not responsibly managed the tax dollars entrusted it by the American people. Decision-makers opened their doors and ears to those able to afford lobbyists while it became harder and harder for everyone else to learn what Government was doing, what it was accomplishing, and for whom. Programs and practices were allowed to persist out of inertia and not because they were delivering the results expected of them, while others that seemed to work were rarely assessed to confirm their impact and find ways to enhance their value. Over the last two decades, as the private sector was utilizing new management techniques and information technologies to boost productivity, cut costs, and deliver previously unheard of levels of customer service, the public sector lagged conspicuously behind.

The American people deserve better. They deserve a Federal Government that respects their tax dollars, and uses them effectively and efficiently. They deserve a Federal Government that is transparent, fair, and responsive. And they deserve a Government that is constantly looking to streamline what works and to eliminate what does not. The Administration is committed to revolutionizing how the Federal Government runs on behalf of the American people. The President appointed the Nation's first Chief Performance Officer, and the Administration has taken steps to bring more transparency to, for instance, how Federal information technology (IT) dollars are spent to improve customer service for those using citizenship services. At the same time, the Administration has combed the Budget to find programs that are duplicative, outdated, or just not working.

To improve the performance of the Federal Government in the coming fiscal year and in years to come, the Administration will pursue three mutually reinforcing performance management strategies:

1. Use Performance Information to Lead, Learn, and Improve Outcomes. Agency leaders set a few high-priority goals and use constructive data-based reviews to keep their organizations on track to deliver on these objectives.

2. Communicate Performance Coherently and Concisely for Better Results and Transparency. The Federal Government will candidly communicate to the public the priorities, problems, and progress of Government programs, explaining the reasons behind past trends, the impact of past actions, and future plans. In addition, agencies will strengthen their capacity to learn from experience and experiments.

3. Strengthen Problem-Solving Networks. The Federal Government will tap into and encourage practitioner communities, inside and outside Government, to work together to improve outcomes and performance management practices.

USE PERFORMANCE INFORMATION TO LEAD, LEARN, AND IMPROVE OUTCOMES

Government operates more effectively when it focuses on outcomes, when leaders set clear and measurable goals, and when agencies use measurement to reinforce priorities, motivate action, and illuminate a path to improvement. This outcome-focused performance management approach has proved a powerful way to achieve large performance gains in other countries, several States, an increasing number of local governments, and a growing number of Federal programs. For instance, the State of Washington pushed down the re-victimization rate of children harmed in their homes from 13.3 percent to 6.5 percent over the last seven years by monitoring how changes in agency action affected children previously harmed and by adjusting policies accordingly to make improvements for the children.

New York City and, subsequently, the City of Los Angeles saw crime rates plummet

after each adopted CompStat meetings. These are frequently scheduled, goal-focused, data-driven meetings at which precinct captains are expected to discuss statistics about outcomes (e.g., crime), cost drivers (e.g., overtime), unwanted side effects (e.g., police abuse complaints), patterns of problems in the precinct, probable causes, apparent effects of prior actions, and future actions planned. Similarly, the U.S. Coast Guard's Marine and Marine Environmental Protection programs work to reduce maritime deaths and injuries, large oil spills, and chemical discharge incidents by regularly analyzing their data to identify contributory causes and by testing different prevention options to identify and then implement those that work best.

Outcome-focused performance management can transform the way government works, but its success is by no means assured. The ultimate test of an effective performance management system is whether it is used, not the number of goals and measures produced. Federal performance management efforts have not fared well on this test. The Government Performance and Results Act of 1993 (GPRA) and the Performance Assessment Rating Tool (PART) reviews increased the production of measurements in many agencies, resulting in the availability of better measures than previously existed; however, these initial successes have not lead to increased use. With a few exceptions, Congress does not use the performance goals and measures agencies produce to conduct oversight, agencies do not use them to evaluate effectiveness or drive improvements, and they have not provided meaningful information for the public.

Studies of past Federal performance management efforts have identified several problematic practices. For example, senior leaders at Federal agencies have historically focused far more attention on new policy development than on managing to improve outcomes. Mechanisms used to motivate change created serious unwanted side effects or linked to the wrong objectives. Central office reviews mandated measurements inappropriate to the situation, and performance reports seldom answered the questions of key audiences. Moreover, the annual reporting requirement of GPRA and the five-year program PART review cycle did not provide agencies the fast feedback needed to assess if delivery efforts were on track or to diagnose why they were or were not. Neither GPRA nor PART precluded more frequent measurement to inform agency action, but only a few agencies opted to supplement their annual measurement cycle with the kinds of data and analysis that fueled the private sector performance revolution.

The Administration is initiating several new performance management actions and is tasking a new generation of performance leaders to implement successful performance management practices.

To encourage senior leaders to deliver results against the most important priorities, the Administration launched the High-Priority Performance Goal initiative in June 2009, asking agency heads to identify and commit to a limited number of priority goals, generally three to eight, with high value to the public. The goals must have ambitious, but realistic, targets to achieve within 18 to 24 months without need for new resources or legislation, and well-defined, outcomes-based measures of progress. These goals are included in this Budget. Some notable examples are:

Assist 3 million homeowners who are at risk of losing their homes due to foreclosure (Secretaries Donovan and Geithner);

Reduce the population of homeless veterans to 59,000 in June, 2012 (Secretaries Donovan and Shinseki); and

Double renewable energy generating capacity (excluding conventional hydropower) by 2012 (Secretary Chu).

In the coming year, the Administration will ask agency leaders to carry out a similar priority-setting exercise with top managers of their bureaus to set bureau-level goals and align those goals, as appropriate, with agency-wide priority goals. These efforts are not distinct from the goal-setting and measurement expectations set forth in the GPRA, but rather reflect an intention to translate GPRA from a reporting exercise to a performance-improving practice across the Federal Government. By making agencies' top leaders responsible for specific goals that they themselves have named as most important, the Administration is dramatically improving accountability and the chances that Government will deliver results on what matters most.

Agency leaders will put in place rigorous, constructive quarterly feedback and review sessions to help agencies reach their targets, building on lessons from successful public sector performance management models in other governments and in some Federal agencies. In addition, the Office of Management and Budget (OMB) will initiate quarterly performance updates to help senior Federal Government leaders stay focused on driving to results.

OMB will support the agencies with tools and assistance to help them succeed. In addition, OMB will help coordinate inter-agency efforts in select situations where collaboration is critical to success.

COMMUNICATE PERFORMANCE COHERENTLY AND CONCISELY FOR BETTER RESULTS AND TRANSPARENCY

Transparent, coherent performance information contributes to more effective, efficient, fair, and responsive government. Transparency not only promotes public understanding about the actions that government is working to accomplish, but also supports learning across government agencies, stimulates idea flow, enlists assistance, and motivates performance gain. In addition, transparency can strengthen public confidence in government, especially when government does more than simply herald its successes but also provides candid assessments of problems encountered, their likely causes, and actions being taken to address problems.

The Administration is initiating several new performance communication actions. First, the Administration will identify and eliminate performance measurements and documents that are not useful. Second, what remains will be used. Goals contained in plans and budgets will communicate concisely and coherently what government is trying to accomplish. Agency, cross-agency, and program measures, including those developed under GPRA and PART that proved useful to agencies, the public, and OMB, will candidly convey how well the Government is accomplishing the goals. Combined performance plans and reports will explain why goals were chosen, the size and characteristics of problems Government is tackling, factors affecting outcomes that Government hopes to influence, lessons learned from experience, and future actions planned.

Going forward, agencies will take greater ownership in communicating performance plans and results to key audiences to inform their decisions. Making performance data useful to all audiences—congressional, public, and agency leaders—improves both program performance and reporting accuracy.

To that end, the Administration will redesign public access to Federal performance information.

The Administration will create a Federal performance portal that provides a clear, concise picture of Federal goals and measures by theme, by agency, by program, and by program type. It will be designed to increase transparency and coherence for the public, motivate improvements, support collaboration, and enhance the ability of the Federal Government and its service delivery partners to learn from others' experiences and from research experiments. The performance portal will also provide easy links to mission-support management dashboards, such as the IT dashboard (http://it.usaspending.gov/) launched in the summer of 2009, and similar dashboards planned for other common Government functions including procurement, improper payments, and hiring.

While performance information is critical to improving Government effectiveness and efficiency, it can answer only so many questions. More sophisticated evaluation methods are required to answer fundamental questions about the social, economic, or environmental impact of programs and practices, isolating the effect of Government action from other possible influencing factors. OMB recently launched an Evaluation Initiative to promote rigorous impact evaluations, build agency evaluation capacity, and improve transparency of evaluation findings. These evaluations are a powerful complement to agency performance improvement efforts and often benefit from the availability of performance data. OMB will make information about all Federal evaluations focused on the impacts of programs and program practices available online through the performance portal. The Evaluation Initiative is explained in more detail in Chapter 8, ''Program Evaluation,'' in this volume.

STRENGTHEN PROBLEM-SOLVING NETWORKS

The third strategy the Administration will pursue to improve performance management involves the extensive use of existing and new practitioner networks. Federal agencies do not work in isolation to improve outcomes. Every Federal agency and employee depends on and is supported by others—other Federal offices, other levels of government, for-profit and not-for-profit organizations, and individuals with expertise or a passion about specific problems. New information technologies are transforming our ability to tap vast reservoirs of capacity beyond the office. At the same time, low-technology networks such as professional associations and communities of practice are also able to solve problems, spur innovation, and diffuse knowledge. The Administration will create cross-agency teams to tackle shared problems and reach out to existing networks, both inside and outside Government, to find and develop smarter performance management methods and to assist others in their application. It will tap their intelligence, ingenuity, and commitment, as well as their dissemination and delivery capacity.

The Performance Improvement Council (PIC), made up of Performance Improvement Officers from every Federal agency, will function as the hub of the performance management network. OMB will work with the PIC to create and advance a new set of Federal performance management principles, refine a Government-wide performance management implementation plan, and identify and tackle specific problems as they arise. The PIC will also serve as a home for Federal communities of practice, some new and some old. Some communities of practice will be organized by problems, some by program type such as regulatory programs, and some by methods such as quality management. These communities will develop tools and provide expert advice and assistance to their Federal colleagues. In addition, the PIC will address the governance challenge of advancing progress on high-priority problems that

require action by multiple agencies. The Administration will also turn to existing external networks—including State and local government associations, schools of public policy and management, think tanks, and professional associations—to enlist their assistance on specific problems and in spreading effective performance management practices.

Mr. CUELLAR did a good job last week in the first of these two appearances on the same bill. He said it was something he really wanted to pass. He said it was his bill. I don't think the fact that it is amended would make it less his bill, but it isn't his bill really. It's written by the administration, codified by the Senate, and sent over to us in the 11th hour when, in fact, it could, in the next Congress, actually go through a review process to see if we could actually mandate something more than what the President's doing, if we should mandate what the President is already doing, or, quite frankly, if we should tie the hands of the next President by simply codifying the elective actions of this President.

□ 1510

Now, there was a letter that came purportedly, and I am sure it did, from somebody in the Bush administration. And I will be interested to see when it was written because this President has systematically chosen to make changes in how the last President did performance. I am not going to say that President Bush was the best or that what President Obama is doing is different; but there are differences, and these differences are the elective right of the President to try to do these.

So with all due respect, Madam Speaker, I will still be voting ''no'' on this second Groundhog Day on this bill. I will still believe that if we had had a chance in the next Congress we could have done better and would have done better.

With that, I reserve the balance of my time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to the House amendment to the Senate amendment with an amendment:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

GPRA MODERNIZATION ACT OF 2010—Continued

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. CUELLAR. Madam Speaker, again, I want to thank the ranking member. The letter was written by Robert Shea who worked with President Bush. It was written in June of this year. Mr. Shea still supports the bill as it has been passed by the Senate.

Again, when the bill first passed here, this was a bill that did get some changes. I believe the major change that the gentleman is referring to is a provision that he authored that would have required agencies to evaluate performance goals twice a year. Those provisions added significantly to the cost of the bill. And when this bill first passed the House, it had a $150 million cost. By taking those provisions, it was reduced down to $75 million, which is $15 million a year.

This is a bipartisan bill that updates the 1993 legislation. The original cosponsors include myself, several other Members, including Congressman PLATTS and Congressman MCCAUL. And in the Senate, Senate supporters that we have are VOINOVICH; COLLINS; WARNER, who took the lead on this, AKAKA, Senator LIEBERMAN, and basically Senator COBURN who had an amendment. So this is a bipartisan bill. It will not add a single penny to the deficit. In fact, it will save taxpayers' dollars. I urge support of it.

I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I ask unanimous consent that we now suspend these and go to the bill that has been received from the Senate. Obviously, the American people are desperately waiting to see us fund a government that is going without money as of midnight tonight and respectfully say that it is appropriate to take up the business of the funding of this government at this time.

The SPEAKER pro tempore. The Chair would entertain such a request only if the gentleman from Texas yields for that purpose.

Mr. ISSA. Will the gentleman from Texas yield for the important work of the American people?

Mr. CUELLAR. I certainly yield.

Mr. ISSA. I hereby make the motion that we do suspend the proceedings and go to——

Mr. CUELLAR. But I do object.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair did not hear the response of the gentleman from Texas.

Mr. CUELLAR. The gentleman objects.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from California to reclaim his time.

Mr. ISSA. Madam Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point his order.

Mr. ISSA. I believe that the gentleman from Texas yielded time upon your request that you would only consider my request to move to the business of appropriating for this current fiscal year. That motion is still there. He yielded. I would like that motion to be heard that we suspend this and move to the business of appropriations for this fiscal year.

The SPEAKER pro tempore. The Chair heard objection to the unanimous consent request from the gentleman from Texas.

Mr. ISSA. I hereby move—not unanimous consent—that we do so. I make a motion that we suspend and that we move to the business of the American people's funding for this fiscal year.

The SPEAKER pro tempore. The Chair advises the gentleman that such a motion is not admissible.

The Chair continues to recognizes the gentleman from California for purposes of debate on the pending motion to concur.

Mr. ISSA. I thank the Speaker.

Madam Speaker, when Robert Johnson Shea recommended this bill before us, it wasn't this bill before us. This is a completely different bill, dramatically changed. So I believe that when people who will come and vote on this consider this, they should discount completely a recommendation from a Bush administration official that speaks to a bill that Mr. CUELLAR authored which bears very little resemblance to this one.

As I said earlier, this bill today simply puts into statute what the President is already on an elective basis doing, ties the hands of a future President without providing any new authority for the President to do a better job.

With that, I reserve the balance of my time.

Mr. CUELLAR. Madam Speaker, Mr. Shea, a Bush appointee, supports this bill even as it has passed the Senate. Again, this is a bipartisan bill supported by both Democrats and Republicans. I ask support of this bill.

I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I think all was said that needed to be said in the 15 minutes a side last week. The only thing that can yet be said in my closing is we are better than this, Madam Speaker. We should not accept something on a closed rule without any possibility of amendment when in fact the Senate took what we had passed, completely amended it, and sent it back completely different.

Madam Speaker, I know that process is not something that is often talked about on this floor as though it is important. But, Madam Speaker, in the next Congress it is clear that process is important, that debate and deliberation is important, that we not simply take what the Senate takes, allow them to change it completely, send it back to us bearing no resemblance, and not have a conference.

If this bill is so important, as Mr. CUELLAR says, that it be passed in a lame duck session, then Madam Speaker, isn't it so important that it should have gone through a conference process or at least that the Senate or House leaders would have come to the committee of jurisdiction and at least asked us what needed to be changed in order to get our support? They didn't have that support.

Like any bill, you will pick off a few Texans for a Texan's bill, or you will pick off a few Members, that doesn't make it bipartisan. It certainly wasn't

bicameral when, in fact, Mr. CUELLAR's bill was rewritten in the Senate; written by the White House, as far as I can tell, to look more like his budget process procedures that he printed back in February; sent back to us so that we could make in statute what the President chooses to do.

Madam Speaker, we are better than that. In the next Congress, I certainly believe that if the House and the Senate have differences of opinions, it is appropriate that it be worked out through a process of conference and not simply take what the Senate sends in a closed rule without anything but meaningless debate. And, Madam Speaker, debate without the opportunity to change one line is simply talking about a foregone conclusion that last Friday the votes were counted.

With that, Madam Speaker, I yield back the balance of my time hopefully for this lame duck session.

Mr. CUELLAR. Madam Speaker, I thank the gentleman for being brief. I appreciate his consideration.

I wrote my dissertation on performance-based budgets in a comparative study of 50 States. I added about 99 percent of all the performance-based budgeting in Texas right before President Bush was the Governor there.

I know this legislation, and this legislation is probably the largest change we have had since 1993. Members, this is a bipartisan bill supported by both Democrats and Republicans in the House and the Senate. So, Madam Speaker, again, I urge all Members to support H.R. 2142.

Mr. PLATTS. Madam Speaker, I rise in support of this Senate-House compromise legislation, which takes important steps to eliminate Federal Government waste. For 4 years I served as the Chairman of the Oversight and Government Reform Subcommittee on Government Management, Finance, and Accountability, where I focused my efforts on making the Federal Government more accountable. My Subcommittee held numerous hearings in which, all too often, accounting errors such as overpayment for services or redundant payments were discovered or where programs were not effectively fulfilling their intended mission.

At a time when the national debt is nearly $14 trillion, it has never been more apparent that the Federal Government must spend taxpayer dollars wisely. Federal programs must be monitored to ensure that our investments are presenting clear results and those programs that are not performing effectively must be reformed or eliminated. One of the reasons that we find ourselves in such substantial debt today is that Federal programs never end. Both high-performing and low-performing programs continue on, year after year, often with increasing funds. The Federal Government needs a clear evaluation process for each program, the results of which would be used to provide legislators with the information they need to determine which programs should continue on and which should not.

The legislation we are considering today, similar to legislation that I introduced in the 108th Congress, H.R. 3826, and the 109th Congress, H.R. 185, would require that all Federal agencies work with the Office of Management and Budget, OMB, to clearly identify outcome-based goals and then submit an action plan to achieve these goals. Agencies would be required to conduct quarterly performance assessments outlining how effectively they are working to meet the stated goals, and all information would be made available to Congress and the American people.

In addition, the Government Accountability Office, GAO, would be tasked with performing frequent and detailed evaluations outlining how effective the agency has been in achieving their stated goals. This impartial review of Federal programs will assure that agencies are being good stewards of our Federal taxpayer dollars.

I commend Representative CUELLAR for introducing this bill to ensure that Federal resources are spent efficiently and waste is minimized. Now more than ever, while American families are cutting extraneous expenses from their budgets, the Federal Government must do the same. I hope that all of my colleagues will join with me in supporting this important effort.

Mr. TOWNS. Madam Speaker, I rise in support of H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act. I applaud Representative CUELLAR for his Herculean efforts in getting this bill through the process.

This is a common sense bill that will improve the performance of the Federal Government. This bill was approved by the Committee on Oversight and Government Reform by voice vote on May 20, 2010. The House passed the bill by voice vote on June 16, 2010. The Senate amended the bill and passed it by unanimous consent on December 16, 2010.

H.R. 2142 modernizes and strengthens the Government Performance and Results Act of 1993. This bill requires the Office of Management and Budget to develop governmentwide priority goals that cut across agency programs. This will help agencies work together to reduce duplication and improve efficiencies.

This bill requires each agency to identify performance goals and to perform frequent performance reviews. This will provide agencies and Congress with the information needed to make responsible decisions regarding priorities and resources. The Senate amendments to the bill will improve the transparency of the performance management process by establishing a single website that will allow Congress and members of the public to access the results of performance assessments.

This legislation provides greater accountability by requiring agencies to consider input from Congress and members of the public when developing priorities and by requiring the Government Accountability Office to report to Congress on agency implementation of this legislation.

The Senate amendments retain important provisions from the House-passed bill establishing performance improvement officers at each agency and establishing a performance improvement council. These are not new ideas as they were required by an Executive Order issued by President George W. Bush. Putting these provisions, as well as the rest of this bill in statute will provide a certain framework for both the current and future administrations.

A vote in favor of this bill is a vote in favor of an efficient, effective government. I urge my colleagues to support this legislation.

□ 1520

Mr. CUELLAR. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

The question is on the motion by the gentleman from Texas (Mr. CUELLAR).

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this question will be postponed.

FDA FOOD SAFETY MODERNIZATION ACT

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, with the Senate amendments thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate (Mr. CUELLAR) amendments.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''FDA Food Safety Modernization Act''.

(b) REFERENCES.—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

Sec. 101. Inspections of records.
Sec. 102. Registration of food facilities.
Sec. 103. Hazard analysis and risk-based preventive controls.
Sec. 104. Performance standards.
Sec. 105. Standards for produce safety.
Sec. 106. Protection against intentional adulteration.
Sec. 107. Authority to collect fees.
Sec. 108. National agriculture and food defense strategy.
Sec. 109. Food and Agriculture Coordinating Councils.
Sec. 110. Building domestic capacity.
Sec. 111. Sanitary transportation of food.
Sec. 112. Food allergy and anaphylaxis management.
Sec. 113. New dietary ingredients.
Sec. 114. Requirement for guidance relating to post harvest processing of raw oysters.

Sec. 115. Port shopping.
Sec. 116. Alcohol-related facilities.
TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS
Sec. 201. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.
Sec. 202. Laboratory accreditation for analyses of foods.
Sec. 203. Integrated consortium of laboratory networks.
Sec. 204. Enhancing tracking and tracing of food and recordkeeping.
Sec. 205. Surveillance.
Sec. 206. Mandatory recall authority.
Sec. 207. Administrative detention of food.
Sec. 208. Decontamination and disposal standards and plans.
Sec. 209. Improving the training of State, local, territorial, and tribal food safety officials.
Sec. 210. Enhancing food safety.
Sec. 211. Improving the reportable food registry.
TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD
Sec. 301. Foreign supplier verification program.
Sec. 302. Voluntary qualified importer program.
Sec. 303. Authority to require import certifications for food.
Sec. 304. Prior notice of imported food shipments.
Sec. 305. Building capacity of foreign governments with respect to food safety.
Sec. 306. Inspection of foreign food facilities.
Sec. 307. Accreditation of third-party auditors.
Sec. 308. Foreign offices of the Food and Drug Administration.
Sec. 309. Smuggled food.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Funding for food safety.
Sec. 402. Employee protections.
Sec. 403. Jurisdiction; authorities.
Sec. 404. Compliance with international agreements.
Sec. 405. Determination of budgetary effects.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

SEC. 101. INSPECTIONS OF RECORDS.

(a) IN GENERAL.—Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the heading and all that follows through ''of food is'' and inserting the following: ''RECORDS INSPECTION.—

''(1) ADULTERATED FOOD.—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is'';

(2) by inserting '', and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner,'' after ''relating to such article'';

(3) by striking the last sentence; and

(4) by inserting at the end the following:

''(2) USE OF OR EXPOSURE TO FOOD OF CONCERN.—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

''(3) APPLICATION.—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.''.

(b) CONFORMING AMENDMENT.—Section 704(a)(1)(B) (21 U.S.C. 374(a)(1)(B)) is amended by striking ''section 414 when'' and all that follows through ''subject to'' and inserting ''section 414, when the standard for records inspection under paragraph (1) or (2) of section 414(a) applies, subject to''.

SEC. 102. REGISTRATION OF FOOD FACILITIES.

(a) UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking ''conducts business and'' and inserting ''conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and''; and

(B) inserting '', or any other food categories as determined appropriate by the Secretary, including by guidance'' after ''Code of Federal Regulations'';

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

''(3) BIENNIAL REGISTRATION RENEWAL.—During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.''.

(b) SUSPENSION OF REGISTRATION.—

(1) IN GENERAL.—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: ''The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this Act.'';

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

''(b) SUSPENSION OF REGISTRATION.—

''(1) IN GENERAL.—If the Secretary determines that food manufactured, processed, packed, received, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of a facility—

''(A) that created, caused, or was otherwise responsible for such reasonable probability; or

''(B)(i) that knew of, or had reason to know of, such reasonable probability; and

''(ii) packed, received, or held such food.

''(2) HEARING ON SUSPENSION.—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 business days after the issuance of the order or such other time period, as agreed upon by the Secretary and the registrant, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary shall reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

''(3) POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.—

''(A) CORRECTIVE ACTION PLAN.—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan not later than 14 days after the submission of the corrective action plan or such other time period as determined by the Secretary.

''(B) VACATING OF ORDER.—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall promptly vacate the order and reinstate the registration of the facility subject to the order or modify the order, as appropriate.

''(4) EFFECT OF SUSPENSION.—If the registration of a facility is suspended under this subsection, no person shall import or export food into the United States from such facility, offer to import or export food into the United States from such facility, or otherwise introduce food from such facility into interstate or intrastate commerce in the United States.

''(5) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall promulgate regulations to implement this subsection. The Secretary may promulgate such regulations on an interim final basis.

''(B) REGISTRATION REQUIREMENT.—The Secretary may require that registration under this section be submitted in an electronic format. Such requirement may not take effect before the date that is 5 years after the date of enactment of the FDA Food Safety Modernization Act.

''(6) APPLICATION DATE.—Facilities shall be subject to the requirements of this subsection beginning on the earlier of—

''(A) the date on which the Secretary issues regulations under paragraph (5); or

''(B) 180 days after the date of enactment of the FDA Food Safety Modernization Act.

''(7) NO DELEGATION.—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of suspension shall not be delegated to any officer or employee other than the Commissioner.''.

(2) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of the regulations promulgated under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) IMPORTED FOOD.—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting ''(or for which a registration has been suspended under such section)'' after ''section 415''.

(c) CLARIFICATION OF INTENT.—

(1) RETAIL FOOD ESTABLISHMENT.—The Secretary shall amend the definition of the term ''retail food establishment'' in section in 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term ''community supported agriculture program'' has the same meaning given the term ''community supported agriculture (CSA) program'' in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term ''consumer'' does not include a business.

(d) CONFORMING AMENDMENTS.—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting ''415,'' after ''404,''.

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period ''for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)''.

SEC. 103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

''(a) IN GENERAL.—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(w), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

''(b) HAZARD ANALYSIS.—The owner, operator, or agent in charge of a facility shall—

''(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

''(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

''(B) hazards that occur naturally, or may be unintentionally introduced; and

''(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

''(3) develop a written analysis of the hazards.

''(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

''(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

''(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

''(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

''(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

''(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

''(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

''(2) all affected food is evaluated for safety; and

''(3) all affected food is prevented from entering into commerce if the owner, operator or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

''(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

''(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

''(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

''(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

''(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

''(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions and processes in the facility, and new and emerging threats.

''(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of nonconformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

''(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

''(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

''(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

''(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

''(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

''(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

''(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

''(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

''(1) QUALIFIED FACILITIES.—

''(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the facility meets the conditions under subparagraph (B) or (C).

''(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

''(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

''(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

''(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

''(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

''(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

''(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

''(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

''(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

''(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than $500,000, adjusted for inflation.

''(2) EXEMPTION.—A qualified facility—

''(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

''(B) shall submit to the Secretary—

''(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

''(II) documentation (which may include licenses, inspection reports, certificates, permits,

credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

''(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

''(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

''(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

''(4) DEFINITIONS.—In this subsection:

''(A) AFFILIATE.—The term 'affiliate' means any facility that controls, is controlled by, or is under common control with another facility.

''(B) QUALIFIED END-USER.—The term 'qualified end-user', with respect to a food, means—

''(i) the consumer of the food; or

''(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

''(I) is located—

''(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

''(bb) not more than 275 miles from such facility; and

''(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

''(C) CONSUMER.—For purposes of subparagraph (B), the term 'consumer' does not include a business.

''(D) SUBSIDIARY.—The term 'subsidiary' means any company which is owned or controlled directly or indirectly by another company.

''(5) STUDY.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

''(i) the distribution of food production by type and size of operation, including monetary value of food sold;

''(ii) the proportion of food produced by each type and size of operation;

''(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

''(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

''(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

''(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms 'small business' and 'very small business', for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

''(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

''(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

''(7) NOTIFICATION TO CONSUMERS.—

''(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

''(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

''(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

''(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

''(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

''(n) REGULATIONS.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

''(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

''(B) to define, for purposes of this section, the terms 'small business' and 'very small business', taking into consideration the study described in subsection (l)(5).

''(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

''(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

''(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

''(B) comply with chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act'), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

''(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

''(D) not require a facility to hire a consultant or other third party to identify, implement, certify, or audit preventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

''(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade 'A' Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally-recognized standards in existence on such date.

''(o) DEFINITIONS.—For purposes of this section:

''(1) CRITICAL CONTROL POINT.—The term 'critical control point' means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

''(2) FACILITY.—The term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.

''(3) PREVENTIVE CONTROLS.—The term 'preventive controls' means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

''(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

''(B) Supervisor, manager, and employee hygiene training.

''(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

''(D) A food allergen control program.

''(E) A recall plan.

''(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

''(G) Supplier verification activities that relate to the safety of food.''.

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the

definition of the term ''facility'' under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term ''facility'' under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) LIMITATION.—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

(2) FINAL REGULATIONS.—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

(d) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

''(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.''.

(f) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(g) DIETARY SUPPLEMENTS.—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa–1).

(h) UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

(i) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

SEC. 104. PERFORMANCE STANDARDS.

(a) IN GENERAL.—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

(b) GUIDANCE DOCUMENTS AND REGULATIONS.—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

(c) NO DUPLICATION OF EFFORTS.—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) REVIEW.—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

SEC. 105. STANDARDS FOR PRODUCE SAFETY.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

''SEC. 419. STANDARDS FOR PRODUCE SAFETY.

''(a) PROPOSED RULEMAKING.—

''(1) IN GENERAL.—

''(A) RULEMAKING.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

''(B) DETERMINATION BY SECRETARY.—With respect to small businesses and very small businesses (as such terms are defined in the regulation promulgated under subparagraph (A)) that produce and harvest those types of fruits and vegetables that are raw agricultural commodities that the Secretary has determined are low risk and do not present a risk of serious adverse health consequences or death, the Secretary may determine not to include production and harvesting of such fruits and vegetables in such rulemaking, or may modify the applicable requirements of regulations promulgated pursuant to this section.

''(2) PUBLIC INPUT.—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

''(3) CONTENT.—The proposed rulemaking under paragraph (1) shall—

''(A) provide sufficient flexibility to be applicable to various types of entities engaged in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including small businesses and entities that sell directly to consumers, and be appropriate to the scale and diversity of the production and harvesting of such commodities;

''(B) include, with respect to growing, harvesting, sorting, packing, and storage operations, science-based minimum standards related to soil amendments, hygiene, packaging, temperature controls, animals in the growing area, and water;

''(C) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism;

''(D) take into consideration, consistent with ensuring enforceable public health protection, conservation and environmental practice standards and policies established by Federal natural resource conservation, wildlife conservation, and environmental agencies;

''(E) in the case of production that is certified organic, not include any requirements that conflict with or duplicate the requirements of the national organic program established under the Organic Foods Production Act of 1990, while providing the same level of public health protection as the requirements under guidance documents, including guidance documents regarding action levels, and regulations under the FDA Food Safety Modernization Act; and

''(F) define, for purposes of this section, the terms 'small business' and 'very small business'

''(4) PRIORITIZATION.—The Secretary shall prioritize the implementation of the regulations under this section for specific fruits and vegetables that are raw agricultural commodities based

on known risks which may include a history and severity of foodborne illness outbreaks.

''(b) FINAL REGULATION.—

''(1) IN GENERAL.—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum science-based standards for those types of fruits and vegetables, including specific mixes or categories of fruits or vegetables, that are raw agricultural commodities, based on known safety risks, which may include a history of foodborne illness outbreaks.

''(2) FINAL REGULATION.—The final regulation shall—

''(A) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States or the appropriate elected State official as recognized by State statute; and

''(B) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

''(3) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

''(A) the regulations promulgated under this section shall apply to a small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 1 year after the effective date of the final regulation under paragraph (1); and

''(B) the regulations promulgated under this section shall apply to a very small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 2 years after the effective date of the final regulation under paragraph (1).

''(c) CRITERIA.—

''(1) IN GENERAL.—The regulations adopted under subsection (b) shall—

''(A) set forth those procedures, processes, and practices that the Secretary determines to minimize the risk of serious adverse health consequences or death, including procedures, processes, and practices that the Secretary determines to be reasonably necessary to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402;

''(B) provide sufficient flexibility to be practicable for all sizes and types of businesses, including small businesses such as a small food processing facility co-located on a farm;

''(C) comply with chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act'), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the business, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

''(D) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

''(E) not require a business to hire a consultant or other third party to identify, implement, certify, compliance with these procedures, processes, and practices, except in the case of negotiated enforcement resolutions that may require such a consultant or third party; and

''(F) permit States and foreign countries from which food is imported into the United States to request from the Secretary variances from the requirements of the regulations, subject to paragraph (2), where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 and to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

''(2) VARIANCES.—

''(A) REQUESTS FOR VARIANCES.—A State or foreign country from which food is imported into the United States may in writing request a variance from the Secretary. Such request shall describe the variance requested and present information demonstrating that the variance does not increase the likelihood that the food for which the variance is requested will be adulterated under section 402, and that the variance provides the same level of public health protection as the requirements of the regulations adopted under subsection (b). The Secretary shall review such requests in a reasonable timeframe.

''(B) APPROVAL OF VARIANCES.—The Secretary may approve a variance in whole or in part, as appropriate, and may specify the scope of applicability of a variance to other similarly situated persons.

''(C) DENIAL OF VARIANCES.—The Secretary may deny a variance request if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulation adopted under subsection (b). The Secretary shall notify the person requesting such variance of the reasons for the denial.

''(D) MODIFICATION OR REVOCATION OF A VARIANCE.—The Secretary, after notice and an opportunity for a hearing, may modify or revoke a variance if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

''(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and, as appropriate, shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

''(e) GUIDANCE.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture, representatives of State departments of agriculture, farmer representatives, and various types of entities engaged in the production and harvesting or importing of fruits and vegetables that are raw agricultural commodities, including small businesses, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce under this section.

''(2) PUBLIC MEETINGS.—The Secretary shall conduct not fewer than 3 public meetings in diverse geographical areas of the United States as part of an effort to conduct education and outreach regarding the guidance described in paragraph (1) for persons in different regions who are involved in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including persons that sell directly to consumers and farmer representatives, and for importers of fruits and vegetables that are raw agricultural commodities.

''(3) PAPERWORK REDUCTION.—The Secretary shall ensure that any updated guidance under this section will—

''(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm; and

''(B) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.

''(f) EXEMPTION FOR DIRECT FARM MARKETING.—

''(1) IN GENERAL.—A farm shall be exempt from the requirements under this section in a calendar year if—

''(A) during the previous 3-year period, the average annual monetary value of the food sold by such farm directly to qualified end-users during such period exceeded the average annual monetary value of the food sold by such farm to all other buyers during such period; and

''(B) the average annual monetary value of all food sold during such period was less than $500,000, adjusted for inflation.

''(2) NOTIFICATION TO CONSUMERS.—

''(A) IN GENERAL.—A farm that is exempt from the requirements under this section shall—

''(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the farm where the produce was grown; or

''(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provision of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the farm where the produce was grown, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

''(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

''(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a farm subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a farm that are material to the safety of the food produced or harvested at such farm, the Secretary may withdraw the exemption provided to such farm under this subsection.

''(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

''(4) DEFINITIONS.—

''(A) QUALIFIED END-USER.—In this subsection, the term 'qualified end-user', with respect to a food means—

''(i) the consumer of the food; or

''(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that is located—

''(I) in the same State as the farm that produced the food; or

''(II) not more than 275 miles from such farm.

''(B) CONSUMER.—For purposes of subparagraph (A), the term 'consumer' does not include a business.

''(5) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production, harvesting, holding, transportation, and sale of fresh fruits and vegetables. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

''(6) LIMITATION OF EFFECT.—Nothing in this subsection shall prevent the Secretary from exercising any authority granted in the other sections of this Act.

''(g) CLARIFICATION.—This section shall not apply to produce that is produced by an individual for personal consumption.

''(h) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 418.—This section shall not apply to activities of a facility that are subject to section 418.''.

(b) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of regulations under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary of Health and Human Services shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 419 and to assist small entities in complying with standards for safe production and harvesting and other activities required under such section.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 103, is amended by adding at the end the following:

''(vv) The failure to comply with the requirements under section 419.''.

(d) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

SEC. 106. PROTECTION AGAINST INTENTIONAL ADULTERATION.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 105, is amended by adding at the end the following:

''SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERATION.

''(a) DETERMINATIONS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) conduct a vulnerability assessment of the food system, including by consideration of the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessments;

''(B) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration of food at vulnerable points; and

''(C) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

''(2) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which determinations made under paragraph (1) are made publicly available.

''(b) REGULATIONS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act. Such regulations shall—

''(1) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food; and

''(2) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate.

''(c) APPLICABILITY.—Regulations promulgated under subsection (b) shall apply only to food for which there is a high risk of intentional contamination, as determined by the Secretary, in consultation with the Secretary of Homeland Security, under subsection (a), that could cause serious adverse health consequences or death to humans or animals and shall include those foods—

''(1) for which the Secretary has identified clear vulnerabilities (including short shelf-life or susceptibility to intentional contamination at critical control points); and

''(2) in bulk or batch form, prior to being packaged for the final consumer.

''(d) EXCEPTION.—This section shall not apply to farms, except for those that produce milk.

''(e) DEFINITION.—For purposes of this section, the term 'farm' has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).''.

(b) GUIDANCE DOCUMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guidance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) CONTENT.—The guidance documents issued under paragraph (1) shall—

(A) include a model assessment for a person to use under subsection (b)(1) of section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a);

(B) include examples of mitigation strategies or measures described in subsection (b)(2) of such section; and

(C) specify situations in which the examples of mitigation strategies or measures described in subsection (b)(2) of such section are appropriate.

(3) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) PERIODIC REVIEW.—The Secretary of Health and Human Services shall periodically review and, as appropriate, update the regulations under section 420(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and the guidance documents under subsection (b).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 105, is amended by adding at the end the following:

''(ww) The failure to comply with section 420.''.

SEC. 107. AUTHORITY TO COLLECT FEES.

(a) FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

''PART 6—FEES RELATED TO FOOD

''SEC. 743. AUTHORITY TO COLLECT AND USE FEES.

''(a) IN GENERAL.—

''(1) PURPOSE AND AUTHORITY.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

''(A) the responsible party for each domestic facility (as defined in section 415(b)) and the United States agent for each foreign facility subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year;

''(B) the responsible party for a domestic facility (as defined in section 415(b)) and an importer who does not comply with a recall order under section 423 or under section 412(f) in such fiscal year, to cover food recall activities associated with such order performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for such year;

''(C) each importer participating in the voluntary qualified importer program under section 806 in such year, to cover the administrative costs of such program for such year; and

''(D) each importer subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year.

''(2) DEFINITIONS.—For purposes of this section—

''(A) the term 'reinspection' means—

''(i) with respect to domestic facilities (as defined in section 415(b)), 1 or more inspections conducted under section 704 subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary's satisfaction; and

''(ii) with respect to importers, 1 or more examinations conducted under section 801 subsequent to an examination conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary's satisfaction;

''(B) the term 'reinspection-related costs' means all expenses, including administrative expenses, incurred in connection with—

''(i) arranging, conducting, and evaluating the results of reinspections; and

''(ii) assessing and collecting reinspection fees under this section; and

''(C) the term 'responsible party' has the meaning given such term in section 417(a)(1).

''(b) ESTABLISHMENT OF FEES.—

''(1) IN GENERAL.—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

''(2) FEE METHODOLOGY.—

''(A) FEES.—Fees amounts established for collection—

''(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

''(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

''(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

''(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

''(B) OTHER CONSIDERATIONS.—

''(i) VOLUNTARY QUALIFIED IMPORTER PROGRAM.—In establishing the fee amounts under subparagraph (A)(iii) for a fiscal year, the Secretary shall provide for the number of importers who have submitted to the Secretary a notice under section 806(c) informing the Secretary of the intent of such importer to participate in the program under section 806 in such fiscal year.

''(II) RECOUPMENT.—In establishing the fee amounts under subparagraph (A)(iii) for the first 5 fiscal years after the date of enactment of this section, the Secretary shall include in such fee a reasonable surcharge that provides a recoupment of the costs expended by the Secretary to establish and implement the first year of the program under section 806.

''(ii) CREDITING OF FEES.—In establishing the fee amounts under subparagraph (A) for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

''(iii) PUBLISHED GUIDELINES.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish in the Federal Register a proposed set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small businesses. The Secretary shall provide for a period of public comment on such guidelines. The Secretary shall adjust the fee schedule for small businesses subject to such fees only through notice and comment rulemaking.

''(3) USE OF FEES.—The Secretary shall make all of the fees collected pursuant to clause (i), (ii), (iii), and (iv) of paragraph (2)(A) available solely to pay for the costs referred to in such clause (i), (ii), (iii), and (iv) of paragraph (2)(A), respectively.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2010 unless the amount of the total appropriations for food safety activities at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) is equal to or greater than the amount of appropriations for food safety activities at the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year), multiplied by the adjustment factor under paragraph (3).

''(2) AUTHORITY.—If—

''(A) the Secretary does not assess fees under subsection (a) for a portion of a fiscal year because paragraph (1) applies; and

''(B) at a later date in such fiscal year, such paragraph (1) ceases to apply,

the Secretary may assess and collect such fees under subsection (a), without any modification to the rate of such fees, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

''(3) ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The adjustment factor described in paragraph (1) shall be the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year, but in no case shall such adjustment factor be negative.

''(B) COMPOUNDED BASIS.—The adjustment under subparagraph (A) made each fiscal year shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2009.

''(4) LIMITATION ON AMOUNT OF CERTAIN FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section and subject to subparagraph (B), the Secretary may not collect fees in a fiscal year such that the amount collected—

''(i) under subparagraph (B) of subsection (a)(1) exceeds $20,000,000; and

''(ii) under subparagraphs (A) and (D) of subsection (a)(1) exceeds $25,000,000 combined.

''(B) EXCEPTION.—If a domestic facility (as defined in section 415(b)) or an importer becomes subject to a fee described in subparagraph (A), (B), or (D) of subsection (a)(1) after the maximum amount of fees has been collected by the Secretary under subparagraph (A), the Secretary may collect a fee from such facility or importer.

''(d) CREDITING AND AVAILABILITY OF FEES.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

''(e) COLLECTION OF FEES.—

''(1) IN GENERAL.—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

''(2) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

''(f) ANNUAL REPORT TO CONGRESS.—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2010 and each fiscal year thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.''.

(b) EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.—

(1) AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking ''a drug'' and inserting ''a food, drug'';

(B) in clause (i) by striking ''exported drug'' and inserting ''exported food, drug''; and

(C) in clause (ii) by striking ''the drug'' each place it appears and inserting ''the food, drug''.

(2) CLARIFICATION OF CERTIFICATION.—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

''(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a publicly available listing) as the Secretary determines appropriate.''.

(3) LIMITATIONS ON THE USE AND AMOUNT OF FEES.—Paragraph (4) of section 801(e) (21 U.S.C. 381(e)) is amended by adding at the end the following:

''(D) With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food:

''(i) Such fees shall be collected and available solely for the costs of the Food and Drug Administration associated with issuing such certifications.

''(ii) Such fees may not be retained in an amount that exceeds such costs for the respective fiscal year.''

SEC. 108. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.

(a) DEVELOPMENT AND SUBMISSION OF STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and transmit to the relevant committees of Congress, and make publicly available on the Internet Web sites of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) IMPLEMENTATION PLAN.—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) RESEARCH.—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) REVISIONS.—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) CONSISTENCY WITH EXISTING PLANS.—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) COMPONENTS.—

(1) IN GENERAL.—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) GOALS.—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) PREPAREDNESS GOAL.—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) DETECTION GOAL.—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) EMERGENCY RESPONSE GOAL.—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

(I) the Federal Government;

(II) State, local, and tribal governments; and

(III) the private sector.

(D) RECOVERY GOAL.—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture, food production, and international trade;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

(3) EVALUATION.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall—

(A) develop metrics to measure progress for the evaluation process described in paragraph (1)(B); and

(B) report on the progress measured in subparagraph (A) as part of the National Agriculture and Food Defense strategy described in subsection (a)(1).

(c) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, may determine the manner and format in which the National Agriculture and Food Defense strategy established under this section is made publicly available on the Internet Web sites of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Agriculture, as described in subsection (a)(1).

SEC. 109. FOOD AND AGRICULTURE COORDINATING COUNCILS.

The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agriculture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help coordinate and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

(A) animal or plant disease outbreaks;

(B) food contamination; and

(C) natural disasters affecting agriculture and food.

SEC. 110. BUILDING DOMESTIC CAPACITY.

(a) IN GENERAL.—

(1) INITIAL REPORT.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that are intended to promote the safety and supply chain security of food and to prevent outbreaks of foodborne illness and other food-related hazards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for further regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture Coordinating Councils referred to in section 109, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to foodborne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States and local governments to build State and local food safety and food defense capabilities, including progress implementing strategies developed under sections 108 and 205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(H) The impact of requirements under this Act (including amendments made by this Act) on certified organic farms and facilities (as defined in section 415 (21 U.S.C. 350d).

(I) Specific efforts taken pursuant to the agreements authorized under section 421(c) of the Federal Food, Drug, and Cosmetic Act (as added by section 201), together with, as necessary, a description of any additional authorities necessary to improve seafood safety.

(2) BIENNIAL REPORTS.—On a biennial basis following the submission of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (H) of paragraph (1), as necessary.

(b) RISK-BASED ACTIVITIES.—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including commercially-available techniques that can be employed at ports of entry and by Food Emergency Response Network laboratories, and to provide for well-equipped and staffed laboratory facilities and progress toward laboratory accreditation under section 422 of the Federal Food, Drug, and Cosmetic Act (as added by section 202).

(d) INFORMATION TECHNOLOGY.—The report developed under subsection (a)(1) shall include a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) AUTOMATED RISK ASSESSMENT.—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) TRACEBACK AND SURVEILLANCE REPORT.—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in foodborne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 201(r) (21 U.S.C. 321(r)) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public, industry, and State and local governments, as such communication and coordination relates to outbreak identification and traceback.

(g) BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.—The Secretary, the Secretary of Agriculture, and the Secretary of Homeland Security shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of foodborne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the subsequent 2-year period.

(h) EFFECTIVENESS OF PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) IN GENERAL.—To determine whether existing Federal programs administered by the Department of Health and Human Services are effective in achieving the stated goals of such programs, the Secretary shall, beginning not later than 1 year after the date of enactment of this Act—

(A) conduct an annual evaluation of each program of such Department to determine the effectiveness of each such program in achieving legislated intent, purposes, and objectives; and

(B) submit to Congress a report concerning such evaluation.

(2) CONTENT.—The report described under paragraph (1)(B) shall—

(A) include conclusions concerning the reasons that such existing programs have proven successful or not successful and what factors contributed to such conclusions;

(B) include recommendations for consolidation and elimination to reduce duplication and inefficiencies in such programs at such Department as identified during the evaluation conduct under this subsection; and

(C) be made publicly available in a publication entitled ''Guide to the U.S. Department of Health and Human Services Programs''.

(i) UNIQUE IDENTIFICATION NUMBERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study regarding the need for, and challenges associated with, development and implementation of a program that requires a unique identification number for each food facility registered with the Secretary and, as appropriate, each broker that imports food into the United States. Such study shall include an evaluation of the costs associated with development and implementation of such a system, and make recommendations about what new authorities, if any, would be necessary to develop and implement such a system.

(2) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (1) and that includes any recommendations determined appropriate by the Secretary.

SEC. 111. SANITARY TRANSPORTATION OF FOOD.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(b) FOOD TRANSPORTATION STUDY.—The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the

transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 112. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.

(a) DEFINITIONS.—In this section:

(1) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ''early childhood education program'' means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) ESEA DEFINITIONS.—The terms ''local educational agency'', ''secondary school'', ''elementary school'', and ''parent'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) SCHOOL.—The term ''school'' includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(B) APPLICABILITY OF FERPA.—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of section 444 of the General Education Provisions Act (commonly referred to as the ''Family Educational Rights and Privacy Act of 1974'') (20 U.S.C. 1232g).

(2) CONTENTS.—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following and may be updated as the Secretary determines necessary:

(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(i) documentation from their child's physician or nurse—

(I) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;

(II) identifying any food to which the child is allergic;

(III) describing, if appropriate, any prior history of anaphylaxis;

(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;

(V) detailing emergency treatment procedures in the event of a reaction;

(VI) listing the signs and symptoms of a reaction; and

(VII) assessing the child's readiness for self-administration of prescription medication; and

(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(B) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) Communication strategies between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(E) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(F) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(G) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(H) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(I) The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as non-academic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(J) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(K) Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(3) RELATION TO STATE LAW.—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.—

(1) IN GENERAL.—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) USE OF FUNDS.—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) DURATION OF AWARDS.—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A grant awarded under this subsection may not be made in an amount that is more than $50,000 annually.

(7) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal funds required under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) ADMINISTRATIVE FUNDS.—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) PROGRESS AND EVALUATIONS.—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis

management guidelines described in subsection (b).

(11) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $30,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) VOLUNTARY NATURE OF GUIDELINES.—

(1) IN GENERAL.—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be construed to require a local educational agency to implement such guidelines.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

SEC. 113. NEW DIETARY INGREDIENTS.

(a) IN GENERAL.—Section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) NOTIFICATION.—

''(1) IN GENERAL.—If the Secretary determines that the information in a new dietary ingredient notification submitted under this section for an article purported to be a new dietary ingredient is inadequate to establish that a dietary supplement containing such article will reasonably be expected to be safe because the article may be, or may contain, an anabolic steroid or an analogue of an anabolic steroid, the Secretary shall notify the Drug Enforcement Administration of such determination. Such notification by the Secretary shall include, at a minimum, the name of the dietary supplement or article, the name of the person or persons who marketed the product or made the submission of information regarding the article to the Secretary under this section, and any contact information for such person or persons that the Secretary has.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'anabolic steroid' has the meaning given such term in section 102(41) of the Controlled Substances Act; and

''(B) the term 'analogue of an anabolic steroid' means a substance whose chemical structure is substantially similar to the chemical structure of an anabolic steroid.''.

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identify of a new dietary ingredient.

SEC. 114. REQUIREMENT FOR GUIDANCE RELATING TO POST HARVEST PROCESSING OF RAW OYSTERS.

(a) IN GENERAL.—Not later than 90 days prior to the issuance of any guidance, regulation, or suggested amendment by the Food and Drug Administration to the National Shellfish Sanitation Program's Model Ordinance, or the issuance of any guidance or regulation by the Food and Drug Administration relating to the Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration (parts 123 and 1240 of title 21, Code of Federal Regulations (or any successor regulations), where such guidance, regulation or suggested amendment relates to post harvest processing for raw oysters, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which shall include—

(1) an assessment of how post harvest processing or other equivalent controls feasibly may be implemented in the fastest, safest, and most economical manner;

(2) the projected public health benefits of any proposed post harvest processing;

(3) the projected costs of compliance with such post harvest processing measures;

(4) the impact post harvest processing is expected to have on the sales, cost, and availability of raw oysters;

(5) criteria for ensuring post harvest processing standards will be applied equally to shellfish imported from all nations of origin;

(6) an evaluation of alternative measures to prevent, eliminate, or reduce to an acceptable level the occurrence of foodborne illness; and

(7) the extent to which the Food and Drug Administration has consulted with the States and other regulatory agencies, as appropriate, with regard to post harvest processing measures.

(b) LIMITATION.—Subsection (a) shall not apply to the guidance described in section 103(h).

(c) REVIEW AND EVALUATION.—Not later than 30 days after the Secretary issues a proposed regulation or guidance described in subsection (a), the Comptroller General of the United States shall—

(1) review and evaluate the report described in (a) and report to Congress on the findings of the estimates and analysis in the report;

(2) compare such proposed regulation or guidance to similar regulations or guidance with respect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods; and

(3) evaluate the impact of post harvest processing on the competitiveness of the domestic oyster industry in the United States and in international markets.

(d) WAIVER.—The requirement of preparing a report under subsection (a) shall be waived if the Secretary issues a guidance that is adopted as a consensus agreement between Federal and State regulators and the oyster industry, acting through the Interstate Shellfish Sanitation Conference.

(e) PUBLIC ACCESS.—Any report prepared under this section shall be made available to the public.

SEC. 115. PORT SHOPPING.

Until the date on which the Secretary promulgates a final rule that implements the amendments made by section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, (Public Law 107–188), the Secretary shall notify the Secretary of Homeland Security of all instances in which the Secretary refuses to admit a food into the United States under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) so that the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may prevent food refused admittance into the United States by a United States port of entry from being admitted by another United States port of entry, through the notification of other such United States ports of entry.

SEC. 116. ALCOHOL-RELATED FACILITIES.

(a) IN GENERAL.—Except as provided by sections 102, 206, 207, 302, 304, 402, 403, and 404 of this Act, and the amendments made by such sections, nothing in this Act, or the amendments made by this Act, shall be construed to apply to a facility that—

(1) under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 et seq.) is required to obtain a permit or to register with the Secretary of the Treasury as a condition of doing business in the United States; and

(2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages, with respect to the activities of such facility that relate to the manufacturing, processing, packing, or holding of alcoholic beverages.

(b) LIMITED RECEIPT AND DISTRIBUTION OF NON-ALCOHOL FOOD.—Subsection (a) shall not apply to a facility engaged in the receipt and distribution of any non-alcohol food, except that such paragraph shall apply to a facility described in such paragraph that receives and distributes non-alcohol food, provided such food is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and

(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(c) RULE OF CONSTRUCTION.—Except as provided in subsections (a) and (b), this section shall not be construed to exempt any food, other than alcoholic beverages, as defined in section 214 of the Federal Alcohol Administration Act (27 U.S.C. 214), from the requirements of this Act (including the amendments made by this Act).

TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

SEC. 201. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 106, is amended by adding at the end the following:

''SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

''(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

''(1) IDENTIFICATION.—The Secretary shall identify high-risk facilities and shall allocate resources to inspect facilities according to the known safety risks of the facilities, which shall be based on the following factors:

''(A) The known safety risks of the food manufactured, processed, packed, or held at the facility.

''(B) The compliance history of a facility, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

''(C) The rigor and effectiveness of the facility's hazard analysis and risk-based preventive controls.

''(D) Whether the food manufactured, processed, packed, or held at the facility meets the criteria for priority under section 801(h)(1).

''(E) Whether the food or the facility that manufactured, processed, packed, or held such food has received a certification as described in section 801(q) or 806, as appropriate.

''(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

''(2) INSPECTIONS.—

''(A) IN GENERAL.—Beginning on the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall increase the frequency of inspection of all facilities.

''(B) DOMESTIC HIGH-RISK FACILITIES.—The Secretary shall increase the frequency of inspection of domestic facilities identified under paragraph (1) as high-risk facilities such that each such facility is inspected—

''(i) not less often than once in the 5-year period following the date of enactment of the FDA Food Safety Modernization Act; and

''(ii) not less often than once every 3 years thereafter.

''(C) DOMESTIC NON-HIGH-RISK FACILITIES.—The Secretary shall ensure that each domestic facility that is not identified under paragraph (1) as a high-risk facility is inspected—

''(i) not less often than once in the 7-year period following the date of enactment of the FDA Food Safety Modernization Act; and

''(ii) not less often than once every 5 years thereafter.

''(D) FOREIGN FACILITIES.—

''(i) YEAR 1.—In the 1-year period following the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall inspect not fewer than 600 foreign facilities.

''(ii) SUBSEQUENT YEARS.—In each of the 5 years following the 1-year period described in clause (i), the Secretary shall inspect not fewer than twice the number of foreign facilities inspected by the Secretary during the previous year.

''(E) RELIANCE ON FEDERAL, STATE, OR LOCAL INSPECTIONS.—In meeting the inspection requirements under this subsection for domestic facilities, the Secretary may rely on inspections conducted by other Federal, State, or local agencies under interagency agreement, contract, memoranda of understanding, or other obligation.

''(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect any article of food imported into the United States according to the known safety risks of the article of food, which shall be based on the following factors:

''(1) The known safety risks of the food imported.

''(2) The known safety risks of the countries or regions of origin and countries through which such article of food is transported.

''(3) The compliance history of the importer, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

''(4) The rigor and effectiveness of the activities conducted by the importer of such article of food to satisfy the requirements of the foreign supplier verification program under section 805.

''(5) Whether the food importer participates in the voluntary qualified importer program under section 806.

''(6) Whether the food meets the criteria for priority under section 801(h)(1).

''(7) Whether the food or the facility that manufactured, processed, packed, or held such food received a certification as described in section 801(q) or 806.

''(8) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

''(c) INTERAGENCY AGREEMENTS WITH RESPECT TO SEAFOOD.—

''(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, the Chairman of the Federal Trade Commission, and the heads of other appropriate agencies may enter into such agreements as may be necessary or appropriate to improve seafood safety.

''(2) SCOPE OF AGREEMENTS.—The agreements under paragraph (1) may include—

''(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

''(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

''(C) standardization of data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

''(D) coordination to detect and investigate violations under applicable Federal law;

''(E) a process, including the use or modification of existing processes, by which officers and employees of the National Oceanic and Atmospheric Administration may be duly designated by the Secretary to carry out seafood examinations and investigations under section 801 of this Act or section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004;

''(F) the sharing of information concerning observed non-compliance with United States food requirements domestically and in foreign nations and new regulatory decisions and policies that may affect the safety of food imported into the United States;

''(G) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities; and

''(H) outreach on Federal efforts to enhance seafood safety and compliance with Federal food safety requirements.

''(d) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture and the Secretary of Homeland Security to target food inspection resources.

''(e) FACILITY.—For purposes of this section, the term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.''.

(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393) is amended by adding at the end the following:

''(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding—

''(1) information about food facilities including—

''(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

''(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

''(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

''(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year;

''(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

''(F) the number of high-risk facilities identified pursuant to section 421 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year.

''(2) information about food imports including—

''(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

''(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

''(C) the average cost of physically inspecting or sampling a line of food subject to this Act that is imported or offered for import into the United States; and

''(3) information on the foreign offices of the Food and Drug Administration including—

''(A) the number of foreign offices established; and

''(B) the number of personnel permanently stationed in each foreign office.

''(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.''.

(c) ADVISORY COMMITTEE CONSULTATION.—In allocating inspection resources as described in section 421 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary may, as appropriate, consult with any relevant advisory committee within the Department of Health and Human Services.

SEC. 202. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 201, is amended by adding at the end the following:

''SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

''(a) RECOGNITION OF LABORATORY ACCREDITATION.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

''(A) establish a program for the testing of food by accredited laboratories;

''(B) establish a publicly available registry of accreditation bodies recognized by the Secretary and laboratories accredited by a recognized accreditation body, including the name of, contact information for, and other information deemed appropriate by the Secretary about such bodies and laboratories; and

''(C) require, as a condition of recognition or accreditation, as appropriate, that recognized accreditation bodies and accredited laboratories report to the Secretary any changes that would affect the recognition of such accreditation body or the accreditation of such laboratory.

''(2) PROGRAM REQUIREMENTS.—The program established under paragraph (1)(A) shall provide for the recognition of laboratory accreditation bodies that meet criteria established by the Secretary for accreditation of laboratories, including independent private laboratories and laboratories run and operated by a Federal agency (including the Department of Commerce), State, or locality with a demonstrated capability to conduct 1 or more sampling and analytical testing methodologies for food.

''(3) INCREASING THE NUMBER OF QUALIFIED LABORATORIES.—The Secretary shall work with the laboratory accreditation bodies recognized under paragraph (1), as appropriate, to increase the number of qualified laboratories that are eligible to perform testing under subparagraph (b) beyond the number so qualified on the date of enactment of the FDA Food Safety Modernization Act.

''(4) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in coordination with the Secretary of Homeland Security, may determine the time, manner, and form in which the registry established under paragraph (1)(B) is made publicly available.

''(5) FOREIGN LABORATORIES.—Accreditation bodies recognized by the Secretary under paragraph (1) may accredit laboratories that operate outside the United States, so long as such laboratories meet the accreditation standards applicable to domestic laboratories accredited under this section.

''(6) MODEL LABORATORY STANDARDS.—The Secretary shall develop model standards that a laboratory shall meet to be accredited by a recognized accreditation body for a specified sampling or analytical testing methodology and included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall consult existing standards for guidance. The model standards shall include—

''(A) methods to ensure that—

''(i) appropriate sampling, analytical procedures (including rapid analytical procedures), and commercially available techniques are followed and reports of analyses are certified as true and accurate;

''(ii) internal quality systems are established and maintained;

''(iii) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is accredited; and

''(iv) individuals who conduct the sampling and analyses are qualified by training and experience to do so; and

''(B) any other criteria determined appropriate by the Secretary.

''(7) REVIEW OF RECOGNITION.—To ensure compliance with the requirements of this section, the Secretary—

''(A) shall periodically, and in no case less than once every 5 years, reevaluate accreditation bodies recognized under paragraph (1) and may accompany auditors from an accreditation body to assess whether the accreditation body meets the criteria for recognition; and

''(B) shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section, specifying, as appropriate, any terms and conditions necessary for laboratories accredited by such body to continue to perform testing as described in this section.

''(b) TESTING PROCEDURES.—

''(1) IN GENERAL.—Not later than 30 months after the date of enactment of the FDA Food Safety Modernization Act, food testing shall be conducted by Federal laboratories or non-Federal laboratories that have been accredited for the appropriate sampling or analytical testing methodology or methodologies by a recognized accreditation body on the registry established by the Secretary under subsection (a)(1)(B) whenever such testing is conducted—

''(A) by or on behalf of an owner or consignee—

''(i) in response to a specific testing requirement under this Act or implementing regulations, when applied to address an identified or suspected food safety problem; and

''(ii) as required by the Secretary, as the Secretary deems appropriate, to address an identified or suspected food safety problem; or

''(B) on behalf of an owner or consignee—

''(i) in support of admission of an article of food under section 801(a); and

''(ii) under an Import Alert that requires successful consecutive tests.

''(2) RESULTS OF TESTING.—The results of any such testing shall be sent directly to the Food and Drug Administration, except the Secretary may by regulation exempt test results from such submission requirement if the Secretary determines that such results do not contribute to the protection of public health. Test results required to be submitted may be submitted to the Food and Drug Administration through electronic means.

''(3) EXCEPTION.—The Secretary may waive requirements under this subsection if—

''(A) a new methodology or methodologies have been developed and validated but a laboratory has not yet been accredited to perform such methodology or methodologies; and

''(B) the use of such methodology or methodologies are necessary to prevent, control, or mitigate a food emergency or foodborne illness outbreak.

''(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by a recognized accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.

''(d) NO LIMIT ON SECRETARIAL AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Secretary to review and act upon information from food testing, including determining the sufficiency of such information and testing.''.

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State, local, and tribal food laboratories, including the adoption of novel surveillance and identification technologies and the sharing of data between Federal agencies and State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

SEC. 203. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to reduce the time required to detect and respond to foodborne illness outbreaks and facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify means by which laboratory network members could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

SEC. 204. ENHANCING TRACKING AND TRACING OF FOOD AND RECORDKEEPING.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary''), taking into account recommendations from the Secretary of Agriculture and representatives of State departments of health and agriculture, shall establish pilot projects in coordination with the food industry to explore and evaluate methods to rapidly and effectively identify recipients of food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) or misbranded under section 403(w) of such Act (21 U.S.C. 343(w)).

(2) CONTENT.—The Secretary shall conduct 1 or more pilot projects under paragraph (1) in coordination with the processed food sector and 1 or more such pilot projects in coordination with processors or distributors of fruits and vegetables that are raw agricultural commodities. The Secretary shall ensure that the pilot projects under paragraph (1) reflect the diversity of the food supply and include at least 3 different types of foods that have been the subject of significant outbreaks during the 5-year period preceding the date of enactment of this Act, and are selected in order to—

(A) develop and demonstrate methods for rapid and effective tracking and tracing of foods in a manner that is practicable for facilities of varying sizes, including small businesses;

(B) develop and demonstrate appropriate technologies, including technologies existing on the date of enactment of this Act, that enhance the tracking and tracing of food; and

(C) inform the promulgation of regulations under subsection (d).

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot projects under this subsection together with recommendations for improving the tracking and tracing of food.

(b) ADDITIONAL DATA GATHERING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture and multiple representatives of State departments of health and agriculture, shall assess—

(A) the costs and benefits associated with the adoption and use of several product tracing technologies, including technologies used in the pilot projects under subsection (a);

(B) the feasibility of such technologies for different sectors of the food industry, including small businesses; and

(C) whether such technologies are compatible with the requirements of this subsection.

(2) REQUIREMENTS.—To the extent practicable, in carrying out paragraph (1), the Secretary shall—

(A) evaluate domestic and international product tracing practices in commercial use;

(B) consider international efforts, including an assessment of whether product tracing requirements developed under this section are compatible with global tracing systems, as appropriate; and

(C) consult with a diverse and broad range of experts and stakeholders, including representatives of the food industry, agricultural producers, and nongovernmental organizations that represent the interests of consumers.

(c) PRODUCT TRACING SYSTEM.—The Secretary, in consultation with the Secretary of Agriculture, shall, as appropriate, establish within the Food and Drug Administration a product tracing system to receive information that improves the capacity of the Secretary to effectively and rapidly track and trace food that is in the United States or offered for import into the United States. Prior to the establishment of such product tracing system, the Secretary shall examine the results of applicable pilot projects and shall ensure that the activities of such system are adequately supported by the results of such pilot projects.

(d) ADDITIONAL RECORDKEEPING REQUIREMENTS FOR HIGH RISK FOODS.—

(1) IN GENERAL.—In order to rapidly and effectively identify recipients of a food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act or misbranded under section 403(w) of such Act, not later than 2 years after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish recordkeeping requirements, in addition to the requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor

regulations), for facilities that manufacture, process, pack, or hold foods that the Secretary designates under paragraph (2) as high-risk foods. The Secretary shall set an appropriate effective date of such additional requirements for foods designated as high risk that takes into account the length of time necessary to comply with such requirements. Such requirements shall—

(A) relate only to information that is reasonably available and appropriate;

(B) be science-based;

(C) not prescribe specific technologies for the maintenance of records;

(D) ensure that the public health benefits of imposing additional recordkeeping requirements outweigh the cost of compliance with such requirements;

(E) be scale-appropriate and practicable for facilities of varying sizes and capabilities with respect to costs and recordkeeping burdens, and not require the creation and maintenance of duplicate records where the information is contained in other company records kept in the normal course of business;

(F) minimize the number of different recordkeeping requirements for facilities that handle more than 1 type of food;

(G) to the extent practicable, not require a facility to change business systems to comply with such requirements;

(H) allow any person subject to this subsection to maintain records required under this subsection at a central or reasonably accessible location provided that such records can be made available to the Secretary not later than 24 hours after the Secretary requests such records; and

(I) include a process by which the Secretary may issue a waiver of the requirements under this subsection if the Secretary determines that such requirements would result in an economic hardship for an individual facility or a type of facility;

(J) be commensurate with the known safety risks of the designated food;

(K) take into account international trade obligations;

(L) not require—

(i) a full pedigree, or a record of the complete previous distribution history of the food from the point of origin of such food;

(ii) records of recipients of a food beyond the immediate subsequent recipient of such food; or

(iii) product tracking to the case level by persons subject to such requirements; and

(M) include a process by which the Secretary may remove a high-risk food designation developed under paragraph (2) for a food or type of food.

(2) DESIGNATION OF HIGH-RISK FOODS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and thereafter as the Secretary determines necessary, the Secretary shall designate high-risk foods for which the additional recordkeeping requirements described in paragraph (1) are appropriate and necessary to protect the public health. Each such designation shall be based on—

(i) the known safety risks of a particular food, including the history and severity of foodborne illness outbreaks attributed to such food, taking into consideration foodborne illness data collected by the Centers for Disease Control and Prevention;

(ii) the likelihood that a particular food has a high potential risk for microbiological or chemical contamination or would support the growth of pathogenic microorganisms due to the nature of the food or the processes used to produce such food;

(iii) the point in the manufacturing process of the food where contamination is most likely to occur;

(iv) the likelihood of contamination and steps taken during the manufacturing process to reduce the possibility of contamination;

(v) the likelihood that consuming a particular food will result in a foodborne illness due to contamination of the food; and

(vi) the likely or known severity, including health and economic impacts, of a foodborne illness attributed to a particular food.

(B) LIST OF HIGH-RISK FOODS.—At the time the Secretary promulgates the final rules under paragraph (1), the Secretary shall publish the list of the foods designated under subparagraph (A) as high-risk foods on the Internet website of the Food and Drug Administration. The Secretary may update the list to designate new high-risk foods and to remove foods that are no longer deemed to be high-risk foods, provided that each such update to the list is consistent with the requirements of this subsection and notice of such update is published in the Federal Register.

(3) PROTECTION OF SENSITIVE INFORMATION.—In promulgating regulations under this subsection, the Secretary shall take appropriate measures to ensure that there are effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section, including periodic risk assessment and planning to prevent unauthorized release and controls to—

(A) prevent unauthorized reproduction of trade secret or confidential information;

(B) prevent unauthorized access to trade secret or confidential information; and

(C) maintain records with respect to access by any person to trade secret or confidential information maintained by the agency.

(4) PUBLIC INPUT.—During the comment period in the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(5) RETENTION OF RECORDS.—Except as otherwise provided in this subsection, the Secretary may require that a facility retain records under this subsection for not more than 2 years, taking into consideration the risk of spoilage, loss of value, or loss of palatability of the applicable food when determining the appropriate timeframes.

(6) LIMITATIONS.—

(A) FARM TO SCHOOL PROGRAMS.—In establishing requirements under this subsection, the Secretary shall, in consultation with the Secretary of Agriculture, consider the impact of requirements on farm to school or farm to institution programs of the Department of Agriculture and other farm to school and farm to institution programs outside such agency, and shall modify the requirements under this subsection, as appropriate, with respect to such programs so that the requirements do not place undue burdens on farm to school or farm to institution programs.

(B) IDENTITY-PRESERVED LABELS WITH RESPECT TO FARM SALES OF FOOD THAT IS PRODUCED AND PACKAGED ON A FARM.—The requirements under this subsection shall not apply to a food that is produced and packaged on a farm if—

(i) the packaging of the food maintains the integrity of the product and prevents subsequent contamination or alteration of the product; and

(ii) the labeling of the food includes the name, complete address (street address, town, State, country, and zip or other postal code), and business phone number of the farm, unless the Secretary waives the requirement to include a business phone number of the farm, as appropriate, in order to accommodate a religious belief of the individual in charge of such farm.

(C) FISHING VESSELS.—The requirements under this subsection with respect to a food that is produced through the use of a fishing vessel (as defined in section 3(18) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(18))) shall be limited to the requirements under subparagraph (F) until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

(D) COMMINGLED RAW AGRICULTURAL COMMODITIES.—

(i) LIMITATION ON EXTENT OF TRACING.—Recordkeeping requirements under this subsection with regard to any commingled raw agricultural commodity shall be limited to the requirements under subparagraph (F).

(ii) DEFINITIONS.—For the purposes of this subparagraph—

(I) the term ''commingled raw agricultural commodity'' means any commodity that is combined or mixed after harvesting, but before processing;

(II) the term ''commingled raw agricultural commodity'' shall not include types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that standards promulgated under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by section 105) would minimize the risk of serious adverse health consequences or death; and

(III) the term ''processing'' means operations that alter the general state of the commodity, such as canning, cooking, freezing, dehydration, milling, grinding, pasteurization, or homogenization.

(E) EXEMPTION OF OTHER FOODS.—The Secretary may, by notice in the Federal Register, modify the requirements under this subsection with respect to, or exempt a food or a type of facility from, the requirements of this subsection (other than the requirements under subparagraph (F), if applicable) if the Secretary determines that product tracing requirements for such food (such as bulk or commingled ingredients that are intended to be processed to destroy pathogens) or type of facility is not necessary to protect the public health.

(F) RECORDKEEPING REGARDING PREVIOUS SOURCES AND SUBSEQUENT RECIPIENTS.—In the case of a person or food to which a limitation or exemption under subparagraph (C), (D), or (E) applies, if such person, or a person who manufactures, processes, packs, or holds such food, is required to register with the Secretary under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) with respect to the manufacturing, processing, packing, or holding of the applicable food, the Secretary shall require such person to maintain records that identify the immediate previous source of such food and the immediate subsequent recipient of such food.

(G) GROCERY STORES.—With respect to a sale of a food described in subparagraph (H) to a grocery store, the Secretary shall not require such grocery store to maintain records under this subsection other than records documenting the farm that was the source of such food. The Secretary shall not require that such records be kept for more than 180 days.

(H) FARM SALES TO CONSUMERS.—The Secretary shall not require a farm to maintain any distribution records under this subsection with respect to a sale of a food described in subparagraph (I) (including a sale of a food that is produced and packaged on such farm), if such sale is made by the farm directly to a consumer.

(I) SALE OF A FOOD.—A sale of a food described in this subparagraph is a sale of a food in which—

(i) the food is produced on a farm; and

(ii) the sale is made by the owner, operator, or agent in charge of such farm directly to a consumer or grocery store.

(7) NO IMPACT ON NON-HIGH-RISK FOODS.—The recordkeeping requirements established under paragraph (1) shall have no effect on foods that are not designated by the Secretary under paragraph (2) as high-risk foods. Foods described in the preceding sentence shall be subject solely to the recordkeeping requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations).

(e) EVALUATION AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 1 year after the effective date of the final rule promulgated under subsection (d)(1), the Comptroller General

of the United States shall submit to Congress a report, taking into consideration the costs of compliance and other regulatory burdens on small businesses and Federal, State, and local food safety practices and requirements, that evaluates the public health benefits and risks, if any, of limiting—

(A) the product tracing requirements under subsection (d) to foods identified under paragraph (2) of such subsection, including whether such requirements provide adequate assurance of traceability in the event of intentional adulteration, including by acts of terrorism; and

(B) the participation of restaurants in the recordkeeping requirements.

(2) DETERMINATION AND RECOMMENDATIONS.—In conducting the evaluation and report under paragraph (1), if the Comptroller General of the United States determines that the limitations described in such paragraph do not adequately protect the public health, the Comptroller General shall submit to Congress recommendations, if appropriate, regarding recordkeeping requirements for restaurants and additional foods, in order to protect the public health.

(f) FARMS.—

(1) REQUEST FOR INFORMATION.—Notwithstanding subsection (d), during an active investigation of a foodborne illness outbreak, or if the Secretary determines it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak, the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, may request that the owner, operator, or agent of a farm identify potential immediate recipients, other than consumers, of an article of the food that is the subject of such investigation if the Secretary reasonably believes such article of food—

(A) is adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(B) presents a threat of serious adverse health consequences or death to humans or animals; and

(C) was adulterated as described in subparagraph (A) on a particular farm (as defined in section 1.227 of chapter 21, Code of Federal Regulations (or any successor regulation)).

(2) MANNER OF REQUEST.—In making a request under paragraph (1), the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, shall issue a written notice to the owner, operator, or agent of the farm to which the article of food has been traced. The individual providing such notice shall present to such owner, operator, or agent appropriate credentials and shall deliver such notice at reasonable times and within reasonable limits and in a reasonable manner.

(3) DELIVERY OF INFORMATION REQUESTED.—The owner, operator, or agent of a farm shall deliver the information requested under paragraph (1) in a prompt and reasonable manner. Such information may consist of records kept in the normal course of business, and may be in electronic or non-electronic format.

(4) LIMITATION.—A request made under paragraph (1) shall not include a request for information relating to the finances, pricing of commodities produced, personnel, research, sales (other than information relating to shipping), or other disclosures that may reveal trade secrets or confidential information from the farm to which the article of food has been traced, other than information necessary to identify potential immediate recipients of such food. Section 301(j) of the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act shall apply with respect to any confidential commercial information that is disclosed to the Food and Drug Administration in the course of responding to a request under paragraph (1).

(5) RECORDS.—Except with respect to identifying potential immediate recipients in response to a request under this subsection, nothing in this subsection shall require the establishment or maintenance by farms of new records.

(g) NO LIMITATION ON COMMINGLING OF FOOD.—Nothing in this section shall be construed to authorize the Secretary to impose any limitation on the commingling of food.

(h) SMALL ENTITY COMPLIANCE GUIDE.—Not later than 180 days after promulgation of a final rule under subsection (d), the Secretary shall issue a small entity compliance guide setting forth in plain language the requirements of the regulations under such subsection in order to assist small entities, including farms and small businesses, in complying with the recordkeeping requirements under such subsection.

(i) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding any other provision of law, the regulations promulgated under subsection (d) shall apply—

(1) to small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 1 year after the effective date of the final regulations promulgated under subsection (d); and

(2) to very small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 2 years after the effective date of the final regulations promulgated under subsection (d).

(j) ENFORCEMENT.—

(1) PROHIBITED ACTS.—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting ''; or the violation of any recordkeeping requirement under section 204 of the FDA Food Safety Modernization Act (except when such violation is committed by a farm)'' before the period at the end.

(2) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting ''or (4) the recordkeeping requirements under section 204 of the FDA Food Safety Modernization Act (other than the requirements under subsection (f) of such section) have not been complied with regarding such article,'' in the third sentence before ''then such article shall be refused admission''.

SEC. 205. SURVEILLANCE.

(a) DEFINITION OF FOODBORNE ILLNESS OUTBREAK.—In this Act, the term ''foodborne illness outbreak'' means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a certain food.

(b) FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance foodborne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne illnesses by—

(A) coordinating Federal, State and local foodborne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of surveillance information on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, the Department of Homeland Security, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a foodborne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of identification practices, including fingerprinting strategies, for foodborne infectious agents, in order to identify new or rarely documented causes of foodborne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating foodborne illness surveillance systems and data with other biosurveillance and public health situational awareness capabilities at the Federal, State, and local levels, including by sharing foodborne illness surveillance data with the National Biosurveillance Integration Center; and

(J) other activities as determined appropriate by the Secretary.

(2) WORKING GROUP.—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food and food testing industries, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of foodborne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on foodborne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and local levels, including coordination and integration of activities among Federal agencies, and between the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to foodborne illness aggregated, de-identified surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers at Federal, State, and local levels to improving foodborne illness surveillance and the utility of such surveillance for preventing foodborne illness;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out the activities described in paragraph (1), there is authorized to be appropriated $24,000,000 for each fiscal years 2011 through 2015.

(c) IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.—

(1) IN GENERAL.—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve foodborne illness outbreak response and containment.

(B) Accelerate foodborne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal, State, and local partnerships to coordinate food safety and defense resources and reduce the incidence of foodborne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 108.

(2) REVIEW.—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) FOOD SAFETY CAPACITY BUILDING GRANTS.—Section 317R(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking ''2002'' and inserting ''2010''; and

(2) by striking ''2003 through 2006'' and inserting ''2011 through 2015''.

SEC. 206. MANDATORY RECALL AUTHORITY.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 202, is amended by adding at the end the following:

''SEC. 423. MANDATORY RECALL AUTHORITY.

''(a) VOLUNTARY PROCEDURES.—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

''(b) PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.—

''(1) IN GENERAL.—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

''(A) immediately cease distribution of such article; and

''(B) as applicable, immediately notify all persons—

''(i) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

''(ii) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

''(2) REQUIRED ADDITIONAL INFORMATION.—

''(A) IN GENERAL.—If an article of food covered by a recall order issued under paragraph (1)(B) has been distributed to a warehouse-based third party logistics provider without providing such provider sufficient information to know or reasonably determine the precise identity of the article of food covered by a recall order that is in its possession, the notice provided by the responsible party subject to the order issued under paragraph (1)(B) shall include such information as is necessary for the warehouse-based third party logistics provider to identify the food.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to exempt a warehouse-based third party logistics provider from the requirements of this Act, including the requirements in this section and section 414; or

''(ii) to exempt a warehouse-based third party logistics provider from being the subject of a mandatory recall order.

''(3) DETERMINATION TO LIMIT AREAS AFFECTED.—If the Secretary requires a responsible party to cease distribution under paragraph (1)(A) of an article of food identified in subsection (a), the Secretary may limit the size of the geographic area and the markets affected by such cessation if such limitation would not compromise the public health.

''(c) HEARING ON ORDER.—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible, but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

''(d) POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.—

''(1) AMENDMENT OF ORDER.—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

''(A) amend the order to require recall of such article or other appropriate action;

''(B) specify a timetable in which the recall shall occur;

''(C) require periodic reports to the Secretary describing the progress of the recall; and

''(D) provide notice to consumers to whom such article was, or may have been, distributed.

''(2) VACATING OF ORDER.—If, after such hearing, the Secretary determines that adequate grounds do not exist to continue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

''(e) RULE REGARDING ALCOHOLIC BEVERAGES.—The Secretary shall not initiate a mandatory recall or take any other action under this section with respect to any alcohol beverage until the Secretary has provided the Alcohol and Tobacco Tax and Trade Bureau with a reasonable opportunity to cease distribution and recall such article under the Alcohol and Tobacco Tax and Trade Bureau authority.

''(f) COOPERATION AND CONSULTATION.—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

''(g) PUBLIC NOTIFICATION.—In conducting a recall under this section, the Secretary shall—

''(1) ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification—

''(A) of the recall to consumers and retailers to whom such article was, or may have been, distributed; and

''(B) that includes, at a minimum—

''(i) the name of the article of food subject to the recall;

''(ii) a description of the risk associated with such article; and

''(iii) to the extent practicable, information for consumers about similar articles of food that are not affected by the recall;

''(2) consult the policies of the Department of Agriculture regarding providing to the public a list of retail consignees receiving products involved in a Class I recall and shall consider providing such a list to the public, as determined appropriate by the Secretary; and

''(3) if available, publish on the Internet Web site of the Food and Drug Administration an image of the article that is the subject of the press release described in (1).

''(h) NO DELEGATION.—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.

''(i) EFFECT.—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall, or to issue an order to cease distribution or to recall under any other provision of this Act or under the Public Health Service Act.

''(j) COORDINATED COMMUNICATION.—

''(1) IN GENERAL.—To assist in carrying out the requirements of this subsection, the Secretary shall establish an incident command operation or a similar operation within the Department of Health and Human Services that will operate not later than 24 hours after the initiation of a mandatory recall or the recall of an article of food for which the use of, or exposure to, such article will cause serious adverse health consequences or death to humans or animals.

''(2) REQUIREMENTS.—To reduce the potential for miscommunication during recalls or regarding investigations of a food borne illness outbreak associated with a food that is subject to a recall, each incident command operation or similar operation under paragraph (1) shall use regular staff and resources of the Department of Health and Human Services to—

''(A) ensure timely and coordinated communication within the Department, including enhanced communication and coordination between different agencies and organizations within the Department;

''(B) ensure timely and coordinated communication from the Department, including public statements, throughout the duration of the investigation and related foodborne illness outbreak;

''(C) identify a single point of contact within the Department for public inquiries regarding any actions by the Secretary related to a recall;

''(D) coordinate with Federal, State, local, and tribal authorities, as appropriate, that have responsibilities related to the recall of a food or a foodborne illness outbreak associated with a food that is subject to the recall, including notification of the Secretary of Agriculture and the Secretary of Education in the event such recalled food is a commodity intended for use in a child nutrition program (as identified in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b)); and

''(E) conclude operations at such time as the Secretary determines appropriate.

''(3) MULTIPLE RECALLS.—The Secretary may establish multiple or concurrent incident command operations or similar operations in the event of multiple recalls or foodborne illness outbreaks necessitating such action by the Department of Health and Human Services.''.

(b) SEARCH ENGINE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall modify the Internet Web site of the Food and Drug Administration to include a search engine that—

(1) is consumer-friendly, as determined by the Secretary; and

(2) provides a means by which an individual may locate relevant information regarding each article of food subject to a recall under section 423 of the Federal Food, Drug, and Cosmetic Act and the status of such recall (such as whether a recall is ongoing or has been completed).

(c) CIVIL PENALTY.—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting ''or any person who does not comply with a recall order under section 423'' after ''section 402(a)(2)(B)''.

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 106, is amended by adding at the end the following:

''(xx) The refusal or failure to follow an order under section 423.''.

(e) GAO REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) identifies State and local agencies with the authority to require the mandatory recall of food, and evaluates use of such authority with regard to frequency, effectiveness, and appropriateness, including consideration of any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant authority to have been an error;

(B) identifies Federal agencies, other than the Department of Health and Human Services, with mandatory recall authority and examines use of that authority with regard to frequency, effectiveness, and appropriateness, including any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant agency to have been an error;

(C) considers models for farmer restitution implemented in other nations in cases of erroneous recalls; and

(D) makes recommendations to the Secretary regarding use of the authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by this section) to protect the public health while seeking to minimize unnecessary economic costs.

(2) EFFECT OF REVIEW.—If the Comptroller General of the United States finds, after the review conducted under paragraph (1), that the mechanisms described in such paragraph do not exist or are inadequate, then, not later than 90 days after the conclusion of such review, the Secretary of Agriculture shall conduct a study of the feasibility of implementing a farmer indemnification program to provide restitution to agricultural producers for losses sustained as a result of a mandatory recall of an agricultural commodity by a Federal or State regulatory agency that is subsequently determined to be in error. The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

(f) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the use of recall authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) and any public health advisories issued by the Secretary that advise against the consumption of an article of food on the ground that the article of food is adulterated and poses an imminent danger to health.

(2) CONTENT.—The report under paragraph (1) shall include, with respect to the report year—

(A) the identity of each article of food that was the subject of a public health advisory described in paragraph (1), an opportunity to cease distribution and recall under subsection (a) of section 423 of the Federal Food, Drug, and Cosmetic Act, or a mandatory recall order under subsection (b) of such section;

(B) the number of responsible parties, as defined in section 417 of the Federal Food, Drug, and Cosmetic Act, formally given the opportunity to cease distribution of an article of food and recall such article, as described in section 423(a) of such Act;

(C) the number of responsible parties described in subparagraph (B) who did not cease distribution of or recall an article of food after given the opportunity to cease distribution or recall under section 423(a) of the Federal Food, Drug, and Cosmetic Act;

(D) the number of recall orders issued under section 423(b) of the Federal Food, Drug, and Cosmetic Act; and

(E) a description of any instances in which there was no testing that confirmed adulteration of an article of food that was the subject of a recall under section 423(b) of the Federal Food, Drug, and Cosmetic Act or a public health advisory described in paragraph (1).

SEC. 207. ADMINISTRATIVE DETENTION OF FOOD.

(a) IN GENERAL.—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking ''credible evidence or information indicating'' and inserting ''reason to believe''; and

(2) striking ''presents a threat of serious adverse health consequences or death to humans or animals'' and inserting ''is adulterated or misbranded''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 208. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator''), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) DEVELOPMENT OF STANDARDS.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) DEVELOPMENT OF MODEL PLANS.—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) EXERCISES.—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) MODIFICATIONS.—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) PRIORITIZATION.—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest-risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

SEC. 209. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

(a) IMPROVING TRAINING.—Chapter X (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

''SEC. 1011. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

''(a) TRAINING.—The Secretary shall set standards and administer training and education programs for the employees of State, local, territorial, and tribal food safety officials relating to the regulatory responsibilities and policies established by this Act, including programs for—

''(1) scientific training;

''(2) training to improve the skill of officers and employees authorized to conduct inspections under sections 702 and 704;

''(3) training to achieve advanced product or process specialization in such inspections;

''(4) training that addresses best practices;

''(5) training in administrative process and procedure and integrity issues;

''(6) training in appropriate sampling and laboratory analysis methodology; and

''(7) training in building enforcement actions following inspections, examinations, testing, and investigations.

''(b) PARTNERSHIPS WITH STATE AND LOCAL OFFICIALS.—

''(1) IN GENERAL.—The Secretary, pursuant to a contract or memorandum of understanding between the Secretary and the head of a State, local, territorial, or tribal department or agency, is authorized and encouraged to conduct examinations, testing, and investigations for the purposes of determining compliance with the food safety provisions of this Act through the officers and employees of such State, local, territorial, or tribal department or agency.

''(2) CONTENT.—A contract or memorandum described under paragraph (1) shall include provisions to ensure adequate training of such officers and employees to conduct such examinations, testing, and investigations. The contract or memorandum shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations, testing, or investigations performed pursuant to this section by the officers or employees of the State, territorial, or tribal department or agency.

''(3) EFFECT.—Nothing in this subsection shall be construed to limit the authority of the Secretary under section 702.

''(c) EXTENSION SERVICE.—The Secretary shall ensure coordination with the extension activities of the National Institute of Food and Agriculture of the Department of Agriculture in advising producers and small processors transitioning into new practices required as a result of the enactment of the FDA Food Safety Modernization Act and assisting regulated industry with compliance with such Act.

''(d) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

''(1) IN GENERAL.—In order to improve food safety and reduce the incidence of foodborne illness, the Secretary shall, not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, enter into one or more memoranda of understanding, or enter into other cooperative agreements, with the Secretary of Agriculture to establish a competitive grant program within the National Institute for Food and Agriculture to provide food safety training, education, extension, outreach, and technical assistance to—

''(A) owners and operators of farms;

''(B) small food processors; and

''(C) small fruit and vegetable merchant wholesalers.

''(2) IMPLEMENTATION.—The competitive grant program established under paragraph (1) shall be carried out in accordance with section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as may be necessary to carry out this section for fiscal years 2011 through 2015.''.

(b) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting after section 404 (7 U.S.C. 7624) the following:

"SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.

''(a) IN GENERAL.—The Secretary shall award grants under this section to carry out the competitive grant program established under section 1011(d) of the Federal Food, Drug, and Cosmetic Act, pursuant to any memoranda of understanding entered into under such section.

''(b) INTEGRATED APPROACH.—The grant program described under subsection (a) shall be carried out under this section in a manner that facilitates the integration of food safety standards and guidance with the variety of agricultural production systems, encompassing conventional, sustainable, organic, and conservation and environmental practices.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to projects that target small and medium-sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

''(d) PROGRAM COORDINATION.—

''(1) IN GENERAL.—The Secretary shall coordinate implementation of the grant program under this section with the National Integrated Food Safety Initiative.

''(2) INTERACTION.—The Secretary shall—

''(A) in carrying out the grant program under this section, take into consideration applied research, education, and extension results obtained from the National Integrated Food Safety Initiative; and

''(B) in determining the applied research agenda for the National Integrated Food Safety Initiative, take into consideration the needs articulated by participants in projects funded by the program under this section.

''(e) GRANTS.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support training, education, extension, outreach, and technical assistance projects that will help improve public health by increasing the understanding and adoption of established food safety standards, guidance, and protocols.

''(2) ENCOURAGED FEATURES.—The Secretary shall encourage projects carried out using grant funds under this section to include co-management of food safety, conservation systems, and ecological health.

''(3) MAXIMUM TERM AND SIZE OF GRANT.—

''(A) IN GENERAL.—A grant under this section shall have a term that is not more than 3 years.

''(B) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to an entity under this section after such entity has received 3 years of grant funding under this section.

''(f) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall be—

''(A) a State cooperative extension service;

''(B) a Federal, State, local, or tribal agency, a nonprofit community-based or non-governmental organization, or an organization representing owners and operators of farms, small food processors, or small fruit and vegetable merchant wholesalers that has a commitment to public health and expertise in administering programs that contribute to food safety;

''(C) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a foundation maintained by an institution of higher education;

''(D) a collaboration of 2 of more eligible entities described in this subsection; or

''(E) such other appropriate entity, as determined by the Secretary.

''(2) MULTISTATE PARTNERSHIPS.—Grants under this section may be made for projects involving more than 1 State.

''(g) REGIONAL BALANCE.—In making grants under this section, the Secretary shall, to the maximum extent practicable, ensure—

''(1) geographic diversity; and

''(2) diversity of types of agricultural production.

''(h) TECHNICAL ASSISTANCE.—The Secretary may use funds made available under this section to provide technical assistance to grant recipients to further the purposes of this section.

''(i) BEST PRACTICES AND MODEL PROGRAMS.—Based on evaluations of, and responses arising from, projects funded under this section, the Secretary may issue a set of recommended best practices and models for food safety training programs for agricultural producers, small food processors, and small fresh fruit and vegetable merchant wholesalers.

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.''.

SEC. 210. ENHANCING FOOD SAFETY.

(a) GRANTS TO ENHANCE FOOD SAFETY.—Section 1009 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 399) is amended to read as follows:

"SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.

''(a) IN GENERAL.—The Secretary is authorized to make grants to eligible entities to—

''(1) undertake examinations, inspections, and investigations, and related food safety activities under section 702;

''(2) train to the standards of the Secretary for the examination, inspection, and investigation of food manufacturing, processing, packing, holding, distribution, and importation, including as such examination, inspection, and investigation relate to retail food establishments;

''(3) build the food safety capacity of the laboratories of such eligible entity, including the detection of zoonotic diseases;

''(4) build the infrastructure and capacity of the food safety programs of such eligible entity to meet the standards as outlined in the grant application; and

''(5) take appropriate action to protect the public health in response to—

''(A) a notification under section 1008, including planning and otherwise preparing to take such action; or

''(B) a recall of food under this Act.

''(b) ELIGIBLE ENTITIES; APPLICATION.—

''(1) IN GENERAL.—In this section, the term 'eligible entity' means an entity—

''(A) that is—

''(i) a State;

''(ii) a locality;

''(iii) a territory;

''(iv) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or

''(v) a nonprofit food safety training entity that collaborates with 1 or more institutions of higher education; and

''(B) that submits an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

''(A) an assurance that the eligible entity has developed plans to engage in the types of activities described in subsection (a);

''(B) a description of the types of activities to be funded by the grant;

''(C) an itemization of how grant funds received under this section will be expended;

''(D) a description of how grant activities will be monitored; and

''(E) an agreement by the eligible entity to report information required by the Secretary to conduct evaluations under this section.

''(c) LIMITATIONS.—The funds provided under subsection (a) shall be available to an eligible entity that receives a grant under this section only to the extent such entity funds the food safety programs of such entity independently of any grant under this section in each year of the grant at a level equal to the level of such funding in the previous year, increased by the Consumer Price Index. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(d) ADDITIONAL AUTHORITY.—The Secretary may—

''(1) award a grant under this section in each subsequent fiscal year without reapplication for a period of not more than 3 years, provided the requirements of subsection (c) are met for the previous fiscal year; and

''(2) award a grant under this section in a fiscal year for which the requirement of subsection (c) has not been met only if such requirement was not met because such funding was diverted for response to 1 or more natural disasters or in other extenuating circumstances that the Secretary may determine appropriate.

''(e) DURATION OF AWARDS.—The Secretary may award grants to an individual grant recipient under this section for periods of not more than 3 years. In the event the Secretary conducts a program evaluation, funding in the second year or third year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

''(f) PROGRESS AND EVALUATION.—

''(1) IN GENERAL.—The Secretary shall measure the status and success of each grant program authorized under the FDA Food Safety Modernization Act (and any amendment made by such Act), including the grant program under this section. A recipient of a grant described in the preceding sentence shall, at the end of each grant year, provide the Secretary with information on how grant funds were spent and the status of the efforts by such recipient to enhance food safety. To the extent practicable, the Secretary shall take the performance of such a grant recipient into account when determining whether to continue funding for such recipient.

''(2) NO DUPLICATION.—In carrying out paragraph (1), the Secretary shall not duplicate the efforts of the Secretary under other provisions of this Act or the FDA Food Safety Modernization Act that require measurement and review of the activities of grant recipients under either such Act.

''(g) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.''.

(b) CENTERS OF EXCELLENCE.—Part P of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399V–5. FOOD SAFETY INTEGRATED CENTERS OF EXCELLENCE.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the working group described in subsection (b)(2), shall designate 5 Integrated Food Safety Centers of Excellence (referred to in this section as the 'Centers of Excellence') to serve as resources for Federal, State, and local public health professionals to respond to foodborne illness outbreaks. The Centers of Excellence shall be headquartered at selected State health departments.

''(b) SELECTION OF CENTERS OF EXCELLENCE.—

''(1) ELIGIBLE ENTITIES.—To be eligible to be designated as a Center of Excellence under subsection (a), an entity shall—

''(A) be a State health department;

''(B) partner with 1 or more institutions of higher education that have demonstrated knowledge, expertise, and meaningful experience with regional or national food production, processing, and distribution, as well as leadership in the laboratory, epidemiological, and environmental detection and investigation of foodborne illness; and

''(C) provide to the Secretary such information, at such time, and in such manner, as the Secretary may require.

''(2) WORKING GROUP.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, including food retailers and food manufacturers, consumer organizations, and academia to make recommendations to the Secretary regarding designations of the Centers of Excellence.

''(3) ADDITIONAL CENTERS OF EXCELLENCE.—The Secretary may designate eligible entities to be regional Food Safety Centers of Excellence, in addition to the 5 Centers designated under subsection (a).

''(c) ACTIVITIES.—Under the leadership of the Director of the Centers for Disease Control and Prevention, each Center of Excellence shall be based out of a selected State health department, which shall provide assistance to other regional, State, and local departments of health through activities that include—

''(1) providing resources, including timely information concerning symptoms and tests, for frontline health professionals interviewing individuals as part of routine surveillance and outbreak investigations;

''(2) providing analysis of the timeliness and effectiveness of foodborne disease surveillance and outbreak response activities;

''(3) providing training for epidemiological and environmental investigation of foodborne illness, including suggestions for streamlining and standardizing the investigation process;

''(4) establishing fellowships, stipends, and scholarships to train future epidemiological and food-safety leaders and to address critical workforce shortages;

''(5) training and coordinating State and local personnel;

''(6) strengthening capacity to participate in existing or new foodborne illness surveillance and environmental assessment information systems; and

''(7) conducting research and outreach activities focused on increasing prevention, communication, and education regarding food safety.

''(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that—

''(1) describes the effectiveness of the Centers of Excellence; and

''(2) provides legislative recommendations or describes additional resources required by the Centers of Excellence.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

''(f) NO DUPLICATION OF EFFORT.—In carrying out activities of the Centers of Excellence or other programs under this section, the Secretary shall not duplicate other Federal foodborne illness response efforts.''.

SEC. 211. IMPROVING THE REPORTABLE FOOD REGISTRY.

(a) IN GENERAL.—Section 417 (21 U.S.C. 350f) is amended—

(1) by redesignating subsections (f) through (k) as subsections (i) through (n), respectively; and

(2) by inserting after subsection (e) the following:

''(f) CRITICAL INFORMATION.—Except with respect to fruits and vegetables that are raw agricultural commodities, not more than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary may require a responsible party to submit to the Secretary consumer-oriented information regarding a reportable food, which shall include—

''(1) a description of the article of food as provided in subsection (e)(3);

''(2) as provided in subsection (e)(7), affected product identification codes, such as UPC, SKU, or lot or batch numbers sufficient for the consumer to identify the article of food;

''(3) contact information for the responsible party as provided in subsection (e)(8); and

''(4) any other information the Secretary determines is necessary to enable a consumer to accurately identify whether such consumer is in possession of the reportable food.

''(g) GROCERY STORE NOTIFICATION.—

''(1) ACTION BY SECRETARY.—The Secretary shall—

''(A) prepare the critical information described under subsection (f) for a reportable food as a standardized one-page summary;

''(B) publish such one-page summary on the Internet website of the Food and Drug Administration in a format that can be easily printed by a grocery store for purposes of consumer notification.

''(2) ACTION BY GROCERY STORE.—A notification described under paragraph (1)(B) shall include the date and time such summary was posted on the Internet website of the Food and Drug Administration.

''(h) CONSUMER NOTIFICATION.—

''(1) IN GENERAL.—If a grocery store sold a reportable food that is the subject of the posting and such establishment is part of chain of establishments with 15 or more physical locations, then such establishment shall, not later than 24 hours after a one page summary described in subsection (g) is published, prominently display such summary or the information from such summary via at least one of the methods identified under paragraph (2) and maintain the display for 14 days.

''(2) LIST OF CONSPICUOUS LOCATIONS.—Not more than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop and publish a list of acceptable conspicuous locations and manners, from which grocery stores shall select at least one, for providing the notification required in paragraph (1). Such list shall include—

''(A) posting the notification at or near the register;

''(B) providing the location of the reportable food;

''(C) providing targeted recall information given to customers upon purchase of a food; and

''(D) other such prominent and conspicuous locations and manners utilized by grocery stores as of the date of the enactment of the FDA Food Safety Modernization Act to provide notice of such recalls to consumers as considered appropriate by the Secretary.''.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 206, is amended by adding at the end the following:

''(yy) The knowing and willful failure to comply with the notification requirement under section 417(h).''.

(c) CONFORMING AMENDMENT.—Section 301(e) (21 U.S.C. 331(e)) is amended by striking ''417(g)'' and inserting ''417(j)''.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

SEC. 301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

''SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.

''(a) IN GENERAL.—

''(1) VERIFICATION REQUIREMENT.—Except as provided under subsections (e) and (f), each importer shall perform risk-based foreign supplier verification activities for the purpose of verifying that the food imported by the importer or agent of an importer is—

''(A) produced in compliance with the requirements of section 418 or section 419, as appropriate; and

''(B) is not adulterated under section 402 or misbranded under section 403(w).

''(2) IMPORTER DEFINED.—For purposes of this section, the term 'importer' means, with respect to an article of food—

''(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

''(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

''(b) GUIDANCE.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist importers in developing foreign supplier verification programs.

''(c) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a).

''(2) REQUIREMENTS.—The regulations promulgated under paragraph (1)—

''(A) shall require that the foreign supplier verification program of each importer be adequate to provide assurances that each foreign supplier to the importer produces the imported food in compliance with—

''(i) processes and procedures, including reasonably appropriate risk-based preventive controls, that provide the same level of public health protection as those required under section 418 or section 419 (taking into consideration variances granted under section 419), as appropriate; and

''(ii) section 402 and section 403(w).

''(B) shall include such other requirements as the Secretary deems necessary and appropriate to verify that food imported into the United States is as safe as food produced and sold within the United States.

''(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary shall, as appropriate, take into account differences among importers and types of imported foods, including based on the level of risk posed by the imported food.

''(4) ACTIVITIES.—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

''(d) RECORD MAINTENANCE AND ACCESS.—Records of an importer related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

''(e) EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

''(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

The exemption under paragraph (3) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

''(f) ADDITIONAL EXEMPTIONS.—The Secretary, by notice published in the Federal Register, shall establish an exemption from the requirements of this section for articles of food imported in small quantities for research and evaluation purposes or for personal consumption, provided that such foods are not intended for retail sale and are not sold or distributed to the public.

''(g) PUBLICATION OF LIST OF PARTICIPANTS.—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.''.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 211, is amended by adding at the end the following:

''(zz) The importation or offering for importation of a food if the importer (as defined in section 805) does not have in place a foreign supplier verification program in compliance with such section 805.''.

(c) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by adding ''or the importer (as defined in section 805) is in violation of such section 805'' after ''or in violation of section 505''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 301, is amended by adding at the end the following:

''SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

''(a) IN GENERAL.—Beginning not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

''(1) establish a program, in consultation with the Secretary of Homeland Security—

''(A) to provide for the expedited review and importation of food offered for importation by importers who have voluntarily agreed to participate in such program; and

''(B) consistent with section 808, establish a process for the issuance of a facility certification to accompany food offered for importation by importers who have voluntarily agreed to participate in such program; and

''(2) issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with, such program.

''(b) VOLUNTARY PARTICIPATION.—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program established by the Secretary under subsection (a).

''(c) NOTICE OF INTENT TO PARTICIPATE.—An importer that intends to participate in the program under this section in a fiscal year shall submit a notice and application to the Secretary of such intent at the time and in a manner established by the Secretary.

''(d) ELIGIBILITY.—Eligibility shall be limited to an importer offering food for importation from a facility that has a certification described in subsection (a). In reviewing the applications and making determinations on such applications, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

''(1) The known safety risks of the food to be imported.

''(2) The compliance history of foreign suppliers used by the importer, as appropriate.

''(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards for a designated food.

''(4) The compliance of the importer with the requirements of section 805.

''(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

''(6) The potential risk for intentional adulteration of the food.

''(7) Any other factor that the Secretary determines appropriate.

''(e) REVIEW AND REVOCATION.—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

''(f) FALSE STATEMENTS.—Any statement or representation made by an importer to the Secretary shall be subject to section 1001 of title 18, United States Code.

''(g) DEFINITION.—For purposes of this section, the term 'importer' means the person that brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.''.

SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

(a) IN GENERAL.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: ''With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (q) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.''.

(b) ADDITION OF CERTIFICATION REQUIREMENT.—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

''(q) CERTIFICATIONS CONCERNING IMPORTED FOODS.—

''(1) IN GENERAL.—The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

''(2) FACTORS TO BE CONSIDERED IN REQUIRING CERTIFICATION.—The Secretary shall base the determination that an article of food is required to have a certification described in paragraph (1) on the risk of the food, including—

''(A) known safety risks associated with the food;

''(B) known food safety risks associated with the country, territory, or region of origin of the food;

''(C) a finding by the Secretary, supported by scientific, risk-based evidence, that—

''(i) the food safety programs, systems, and standards in the country, territory, or region of origin of the food are inadequate to ensure that the article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act; and

''(ii) the certification would assist the Secretary in determining whether to refuse or admit the article of food under subsection (a); and

''(D) information submitted to the Secretary in accordance with the process established in paragraph (7).

''(3) CERTIFYING ENTITIES.—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

''(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by the Secretary; or

''(B) such other persons or entities accredited pursuant to section 808 to provide such certification or assurance.

''(4) RENEWAL AND REFUSAL OF CERTIFICATIONS.—The Secretary may—

''(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

''(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is not valid or reliable.

''(5) ELECTRONIC SUBMISSION.—The Secretary shall provide for the electronic submission of certifications under this subsection.

''(6) FALSE STATEMENTS.—Any statement or representation made by an entity described in paragraph (2) to the Secretary shall be subject to section 1001 of title 18, United States Code.

''(7) ASSESSMENT OF FOOD SAFETY PROGRAMS, SYSTEMS, AND STANDARDS.—If the Secretary determines that the food safety programs, systems, and standards in a foreign region, country, or territory are inadequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act, the Secretary shall, to the extent practicable, identify such inadequacies and establish a process by which the foreign region, country, or territory may inform the Secretary of improvements made to such food safety program, system, or standard and demonstrate that those controls are adequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act.''.

(c) CONFORMING TECHNICAL AMENDMENT.—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking ''with respect to an article included within the provision of the fourth sentence of subsection (a)'' and inserting ''with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761,''.

(d) NO LIMIT ON AUTHORITY.—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

SEC. 304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting ''any country to which the article has been refused entry;'' after ''the country from which the article is shipped;''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 305. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD SAFETY.

(a) IN GENERAL.—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory

food safety capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, the Secretary of Homeland Security, the United States Trade Representative, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) PLAN.—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for secure electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations on whether and how to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and testing and detection techniques.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417).

SEC. 306. INSPECTION OF FOREIGN FOOD FACILITIES.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 302, is amended by inserting at the end the following:

"SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.

''(a) INSPECTION.—The Secretary—

''(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

''(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the Secretary), to help ensure the safety and security of the food supply of the United States.

''(b) EFFECT OF INABILITY TO INSPECT.—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign factory, warehouse, or other establishment of which the owner, operator, or agent in charge, or the government of the foreign country, refuses to permit entry of United States inspectors or other individuals duly designated by the Secretary, upon request, to inspect such factory, warehouse, or other establishment. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge does not permit an inspection of a factory, warehouse, or other establishment during the 24-hour period after such request is submitted, or after such other time period, as agreed upon by the Secretary and the foreign factory, warehouse, or other establishment.''.

(b) INSPECTION BY THE SECRETARY OF COMMERCE.—

(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) INSPECTION REPORT.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

(i) prepare an inspection report for each inspection conducted under paragraph (1);

(ii) provide the report to the country or exporter that is the subject of the report; and

(iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) DISTRIBUTION AND USE OF REPORT.—The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 421 of the Federal Food, Drug, and Cosmetic Act, as added by section 201.

SEC. 307. ACCREDITATION OF THIRD-PARTY AUDITORS.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 306, is amended by adding at the end the following:

"SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.

''(a) DEFINITIONS.—In this section:

''(1) AUDIT AGENT.—The term 'audit agent' means an individual who is an employee or agent of an accredited third-party auditor and, although not individually accredited, is qualified to conduct food safety audits on behalf of an accredited third-party auditor.

''(2) ACCREDITATION BODY.—The term 'accreditation body' means an authority that performs accreditation of third-party auditors.

''(3) THIRD-PARTY AUDITOR.—The term 'third-party auditor' means a foreign government, agency of a foreign government, foreign cooperative, or any other third party, as the Secretary determines appropriate in accordance with the model standards described in subsection (b)(2), that is eligible to be considered for accreditation to conduct food safety audits to certify that eligible entities meet the applicable requirements of this section. A third-party auditor may be a single individual. A third-party auditor may employ or use audit agents to help conduct consultative and regulatory audits.

''(4) ACCREDITED THIRD-PARTY AUDITOR.—The term 'accredited third-party auditor' means a third-party auditor accredited by an accreditation body to conduct audits of eligible entities to certify that such eligible entities meet the applicable requirements of this section. An accredited third-party auditor may be an individual who conducts food safety audits to certify that eligible entities meet the applicable requirements of this section.

''(5) CONSULTATIVE AUDIT.—The term 'consultative audit' means an audit of an eligible entity—

''(A) to determine whether such entity is in compliance with the provisions of this Act and with applicable industry standards and practices; and

''(B) the results of which are for internal purposes only.

''(6) ELIGIBLE ENTITY.—The term 'eligible entity' means a foreign entity, including a foreign facility registered under section 415, in the food import supply chain that chooses to be audited by an accredited third-party auditor or the audit agent of such accredited third-party auditor.

''(7) REGULATORY AUDIT.—The term 'regulatory audit' means an audit of an eligible entity—

''(A) to determine whether such entity is in compliance with the provisions of this Act; and

''(B) the results of which determine—

''(i) whether an article of food manufactured, processed, packed, or held by such entity is eligible to receive a food certification under section 801(q); or

''(ii) whether a facility is eligible to receive a facility certification under section 806(a) for purposes of participating in the program under section 806.

''(b) ACCREDITATION SYSTEM.—

''(1) ACCREDITATION BODIES.—

''(A) RECOGNITION OF ACCREDITATION BODIES.—

''(i) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a system for the recognition of accreditation bodies that accredit third-party auditors to certify that eligible entities meet the applicable requirements of this section.

''(ii) DIRECT ACCREDITATION.—If, by the date that is 2 years after the date of establishment of the system described in clause (i), the Secretary has not identified and recognized an accreditation body to meet the requirements of this section, the Secretary may directly accredit third-party auditors.

''(B) NOTIFICATION.—Each accreditation body recognized by the Secretary shall submit to the Secretary a list of all accredited third-party auditors accredited by such body and the audit agents of such auditors.

''(C) REVOCATION OF RECOGNITION AS AN ACCREDITATION BODY.—The Secretary shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

''(D) REINSTATEMENT.—The Secretary shall establish procedures to reinstate recognition of an accreditation body if the Secretary determines, based on evidence presented by such accreditation body, that revocation was inappropriate or that the body meets the requirements for recognition under this section.

''(2) MODEL ACCREDITATION STANDARDS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop model standards, including requirements for regulatory audit reports, and each recognized accreditation body shall ensure that third-party auditors and audit agents of such auditors meet such standards in order to qualify such third-party auditors as accredited third-party auditors under this section. In developing the model standards, the Secretary shall look to standards in place on the date of the enactment of this section for guidance, to avoid unnecessary duplication of efforts and costs.

''(c) THIRD-PARTY AUDITORS.—

''(1) REQUIREMENTS FOR ACCREDITATION AS A THIRD-PARTY AUDITOR.—

''(A) FOREIGN GOVERNMENTS.—Prior to accrediting a foreign government or an agency of a foreign government as an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of food safety programs, systems, and standards of the government or agency of the government as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that the foreign government or agency of the foreign government is capable of adequately ensuring that eligible entities or foods certified by such government or agency meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import into the United States.

''(B) FOREIGN COOPERATIVES AND OTHER THIRD PARTIES.—Prior to accrediting a foreign cooperative that aggregates the products of growers or processors, or any other third party to be an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of the training and qualifications of audit agents used by that cooperative or party and conduct such reviews of internal systems and such other investigation of the cooperative or party as the Secretary deems necessary, including requirements under the model standards developed

under subsection (b)(2), to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity or food meets the requirements of this Act.

''(2) REQUIREMENT TO ISSUE CERTIFICATION OF ELIGIBLE ENTITIES OR FOODS.—

''(A) IN GENERAL.—An accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) may not accredit a third-party auditor unless such third-party auditor agrees to issue a written and, as appropriate, electronic food certification, described in section 801(q), or facility certification under section 806(a), as appropriate, to accompany each food shipment for import into the United States from an eligible entity, subject to requirements set forth by the Secretary. Such written or electronic certification may be included with other documentation regarding such food shipment. The Secretary shall consider certifications under section 801(q) and participation in the voluntary qualified importer program described in section 806 when targeting inspection resources under section 421.

''(B) PURPOSE OF CERTIFICATION.—The Secretary shall use certification provided by accredited third-party auditors to—

''(i) determine, in conjunction with any other assurances the Secretary may require under section 801(q), whether a food satisfies the requirements of such section; and

''(ii) determine whether a facility is eligible to be a facility from which food may be offered for import under the voluntary qualified importer program under section 806.

''(C) REQUIREMENTS FOR ISSUING CERTIFICATION.—

''(i) IN GENERAL.—An accredited third-party auditor shall issue a food certification under section 801(q) or a facility certification described under subparagraph (B) only after conducting a regulatory audit and such other activities that may be necessary to establish compliance with the requirements of such sections.

''(ii) PROVISION OF CERTIFICATION.—Only an accredited third-party auditor or the Secretary may provide a facility certification under section 806(a). Only those parties described in 801(q)(3) or the Secretary may provide a food certification under 301(g).

''(3) AUDIT REPORT SUBMISSION REQUIREMENTS.—

''(A) REQUIREMENTS IN GENERAL.—As a condition of accreditation, not later than 45 days after conducting an audit, an accredited third-party auditor or audit agent of such auditor shall prepare, and, in the case of a regulatory audit, submit, the audit report for each audit conducted, in a form and manner designated by the Secretary, which shall include—

''(i) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

''(ii) the dates of the audit;

''(iii) the scope of the audit; and

''(iv) any other information required by the Secretary that relates to or may influence an assessment of compliance with this Act.

''(B) RECORDS.—Following any accreditation of a third-party auditor, the Secretary may, at any time, require the accredited third-party auditor to submit to the Secretary an onsite audit report and such other reports or documents required as part of the audit process, for any eligible entity certified by the third-party auditor or audit agent of such auditor. Such report may include documentation that the eligible entity is in compliance with any applicable registration requirements.

''(C) LIMITATION.—The requirement under subparagraph (B) shall not include any report or other documents resulting from a consultative audit by the accredited third-party auditor, except that the Secretary may access the results of a consultative audit in accordance with section 414.

''(4) REQUIREMENTS OF ACCREDITED THIRD-PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDITORS.—

''(A) RISKS TO PUBLIC HEALTH.—If, at any time during an audit, an accredited third-party auditor or audit agent of such auditor discovers a condition that could cause or contribute to a serious risk to the public health, such auditor shall immediately notify the Secretary of—

''(i) the identification of the eligible entity subject to the audit; and

''(ii) such condition.

''(B) TYPES OF AUDITS.—An accredited third-party auditor or audit agent of such auditor may perform consultative and regulatory audits of eligible entities.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—An accredited third party auditor may not perform a regulatory audit of an eligible entity if such agent has performed a consultative audit or a regulatory audit of such eligible entity during the previous 13-month period.

''(ii) WAIVER.—The Secretary may waive the application of clause (i) if the Secretary determines that there is insufficient access to accredited third-party auditors in a country or region.

''(5) CONFLICTS OF INTEREST.—

''(A) THIRD-PARTY AUDITORS.—An accredited third-party auditor shall—

''(i) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such auditor;

''(ii) in carrying out audits of eligible entities under this section, have procedures to ensure against the use of any officer or employee of such auditor that has a financial conflict of interest regarding an eligible entity to be certified by such auditor; and

''(iii) annually make available to the Secretary disclosures of the extent to which such auditor and the officers and employees of such auditor have maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

''(B) AUDIT AGENTS.—An audit agent shall—

''(i) not own or operate an eligible entity to be audited by such agent;

''(ii) in carrying out audits of eligible entities under this section, have procedures to ensure that such agent does not have a financial conflict of interest regarding an eligible entity to be audited by such agent; and

''(iii) annually make available to the Secretary disclosures of the extent to which such agent has maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

''(C) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to implement this section and to ensure that there are protections against conflicts of interest between an accredited third-party auditor and the eligible entity to be certified by such auditor or audited by such audit agent. Such regulations shall include—

''(i) requiring that audits performed under this section be unannounced;

''(ii) a structure to decrease the potential for conflicts of interest, including timing and public disclosure, for fees paid by eligible entities to accredited third-party auditors; and

''(iii) appropriate limits on financial affiliations between an accredited third-party auditor or audit agents of such auditor and any person that owns or operates an eligible entity to be certified by such auditor, as described in subparagraphs (A) and (B).

''(6) WITHDRAWAL OF ACCREDITATION.—

''(A) IN GENERAL.—The Secretary shall withdraw accreditation from an accredited third-party auditor—

''(i) if food certified under section 801(q) or from a facility certified under paragraph (2)(B) by such third-party auditor is linked to an outbreak of foodborne illness that has a reasonable probability of causing serious adverse health consequences or death in humans or animals;

''(ii) following an evaluation and finding by the Secretary that the third-party auditor no longer meets the requirements for accreditation; or

''(iii) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

''(B) ADDITIONAL BASIS FOR WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from an accredited third-party auditor in the case that such third-party auditor is accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked, if the Secretary determines that there is good cause for the withdrawal.

''(C) EXCEPTION.—The Secretary may waive the application of subparagraph (A)(i) if the Secretary—

''(i) conducts an investigation of the material facts related to the outbreak of human or animal illness; and

''(ii) reviews the steps or actions taken by the third party auditor to justify the certification and determines that the accredited third-party auditor satisfied the requirements under section 801(q) of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity.

''(7) REACCREDITATION.—The Secretary shall establish procedures to reinstate the accreditation of a third-party auditor for which accreditation has been withdrawn under paragraph (6)—

''(A) if the Secretary determines, based on evidence presented, that the third-party auditor satisfies the requirements of this section and adequate grounds for revocation no longer exist; and

''(B) in the case of a third-party auditor accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked—

''(i) if the third-party auditor becomes accredited not later than 1 year after revocation of accreditation under paragraph (6)(A), through direct accreditation under subsection (b)(1)(A)(ii) or by an accreditation body in good standing; or

''(ii) under such conditions as the Secretary may require for a third-party auditor under paragraph (6)(B).

''(8) NEUTRALIZING COSTS.—The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 203(h) of the Agriculture Marketing Act of 1946, by which the Secretary assesses fees and requires accredited third-party auditors and audit agents to reimburse the Food and Drug Administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.

''(d) RECERTIFICATION OF ELIGIBLE ENTITIES.—An eligible entity shall apply for annual recertification by an accredited third-party auditor if such entity—

''(1) intends to participate in voluntary qualified importer program under section 806; or

''(2) is required to provide to the Secretary a certification under section 801(q) for any food from such entity.

''(e) FALSE STATEMENTS.—Any statement or representation made—

''(1) by an employee or agent of an eligible entity to an accredited third-party auditor or audit agent; or

''(2) by an accredited third-party auditor to the Secretary,

shall be subject to section 1001 of title 18, United States Code.

''(f) MONITORING.—To ensure compliance with the requirements of this section, the Secretary shall—

''(1) periodically, or at least once every 4 years, reevaluate the accreditation bodies described in subsection (b)(1);

''(2) periodically, or at least once every 4 years, evaluate the performance of each accredited third-party auditor, through the review of regulatory audit reports by such auditors, the compliance history as available of eligible entities certified by such auditors, and any other measures deemed necessary by the Secretary;

''(3) at any time, conduct an onsite audit of any eligible entity certified by an accredited third-party auditor, with or without the auditor present; and

''(4) take any other measures deemed necessary by the Secretary.

''(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary shall establish a publicly available registry of accreditation bodies and of accredited third-party auditors, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies and auditors.

''(h) LIMITATIONS.—

''(1) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

''(2) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.''.

SEC. 308. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

SEC. 309. SMUGGLED FOOD.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) NOTIFICATION TO HOMELAND SECURITY.—Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 417(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) PUBLIC NOTIFICATION.—If the Secretary—

(1) identifies a smuggled food;

(2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and

(3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) EFFECT OF SECTION.—Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) DEFINITION.—In this subsection, the term ''smuggled food'' means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FUNDING FOR FOOD SAFETY.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration such sums as may be necessary for fiscal years 2011 through 2015.

(b) INCREASED NUMBER OF FIELD STAFF.—

(1) IN GENERAL.—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

(A) 4,000 staff members in fiscal year 2011;

(B) 4,200 staff members in fiscal year 2012;

(C) 4,600 staff members in fiscal year 2013; and

(D) 5,000 staff members in fiscal year 2014.

(2) FIELD STAFF FOR FOOD DEFENSE.—The goal under paragraph (1) shall include an increase of 150 employees by fiscal year 2011 to—

(A) provide additional detection of and response to food defense threats; and

(B) detect, track, and remove smuggled food (as defined in section 309) from commerce.

SEC. 402. EMPLOYEE PROTECTIONS.

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 209, is further amended by adding at the end the following:

''SEC. 1012. EMPLOYEE PROTECTIONS.

''(a) IN GENERAL.—No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, regulation, standard, or ban under this Act, or any order, rule, regulation, standard, or ban under this Act;

''(2) testified or is about to testify in a proceeding concerning such violation;

''(3) assisted or participated or is about to assist or participate in such a proceeding; or

''(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act, or any order, rule, regulation, standard, or ban under this Act.

''(b) PROCESS.—

''(1) IN GENERAL.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the 'Secretary') alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2) INVESTIGATION.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

''(B) REASONABLE CAUSE FOUND; PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(C) DISMISSAL OF COMPLAINT.—

''(i) STANDARD FOR COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) STANDARD FOR EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) VIOLATION STANDARD.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) RELIEF STANDARD.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) IN GENERAL.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a

final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

''(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

''(i) to take affirmative action to abate the violation;

''(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) to provide compensatory damages to the complainant.

''(C) PENALTY.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

''(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $1,000, to be paid by the complainant.

''(4) ACTION IN COURT.—

''(A) IN GENERAL.—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

''(B) RELIEF.—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

''(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

''(ii) the amount of back pay, with interest; and

''(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

''(5) REVIEW.—

''(A) IN GENERAL.—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

''(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

''(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

''(c) EFFECT OF SECTION.—

''(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

''(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

''(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.''.

SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Amend the title so as to read: ''An Act to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.''.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DINGELL moves that the House concur in the Senate amendments to H.R. 2751.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour equally divided and controlled by the chair and the ranking minority member of the Committee on Energy and Commerce.

The gentleman from Michigan (Mr. DINGELL) and the gentleman from Pennsylvania (Mr. PITTS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous matter into the RECORD.

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

There was no objection.

Mr. DINGELL. Mr. Speaker, I now yield 4 minutes to the gentleman from California (Mr. WAXMAN), the distinguished chairman of the Committee on Energy and Commerce.

Mr. WAXMAN. Mr. Speaker, I appreciate the gentleman from Michigan (Mr. DINGELL) yielding to me. And I want to commend you, Representative DELAURO, Congressmen PALLONE and STUPAK, Mr. BARTON and Mr. SHIMKUS, and former Representative Deal for the work on this legislation.

For a third time, today the House considers legislation that will dramatically improve the safety of our Nation's food supply. The House first passed its bill in July 2009 on a strong bipartisan vote with 283 supporters. On November 30 of this year, the Senate passed the FDA Food Safety Modernization Act on a strong bipartisan basis, by a vote of 73–25. That bill contained some constitutional defects that needed to be fixed. So on Sunday night, the Senate again passed a corrected version of the bill by voice vote.

Congress has demonstrated that food safety is a bipartisan issue. Food-borne illness outbreaks can strike each and every one of us. In recent years, foods we never would have imagined to be unsafe, everything from spinach to peanut butter, have sickened an untold number of Americans. It is time, once and for all, to enact this legislation. There is no time for any further delay.

FDA needs a modern set of authorities to deal with the effects of our increasingly globalized food supply. This legislation will give FDA the tools and resources it needs to better police the safety of the foods we eat every day. The bill makes significant improvements throughout the food chain, from the farm to the dinner table. The bill will require farmers to comply with science-based standards for safe production and harvesting. Companies that process or package foods will be required to implement preventive systems to stop outbreaks before they occur. Importers will have to demonstrate that the food they bring into the country is safe. And the bill strengthens FDA enforcement authorities, giving FDA the ability to order a food recall when companies refuse to voluntarily do so.

Many of us in the House would agree that our bill was stronger. We also would likely agree that it is regrettable that there was not time for a conference to allow us to make some improvements in the Senate bill. But this is an opportunity that will not come again for a long time. There is no question that this is a good bill and that it will provide FDA with some critical new authorities. It will fundamentally shift our food safety oversight system to one that is preventive in nature as opposed to reactive. We simply must take this chance to make our food supply safer. I urge my colleagues to vote ''yes'' on H.R. 2751.

Mr. PITTS. Mr. Speaker, I yield myself such time as I may consume.

At the Energy and Commerce Committee, food safety has been a bipartisan priority. We have held numerous hearings during the last two Congresses, examining food safety problems involving peppers and peanut butter and what we can do to solve those problems. During those hearings, we have heard about how much work our Nation's farmers, manufacturers, and distributors do to put low-cost, high-quality food on the tables of more than 300 million people every day. We also have heard about how much our Nation's children and our Nation's farmers and small businesses can be hurt when one irresponsible actor sells adulterated, contaminated food.

Thanks to helpful testimony from hearing witnesses and hard work by our committee members, we were able to come up with some good ideas to help solve those food safety problems. Those ideas were found in the Food Safety Enhancement Act, which passed the House in July of 2009 and represented the bipartisan work of Chairman WAXMAN, Chairman Emeritus DINGELL, Chairman PALLONE, Chairman STUPAK, Governor-Elect Deal, and Ranking Member SHIMKUS.

The Food Safety Enhancement Act passed more than 16 months ago. The Senate finally passed its food safety bill, the Food Safety Modernization Act, Senate 510, during the lame duck session. The provisions of Senate 510 are contained in the bill that we are considering today with no substantive changes from what passed the Senate 3 weeks ago.

I intend to vote against this bill because it represents such a gross departure from reasonable legislating. When the Senate passed its food safety bill 3 weeks ago, we asked our majority to take the bill to conference. Instead, we were forced to vote on the Senate bill with no substantive changes as part of the continuing resolution 2 weeks ago.

During the 111th Congress, we have learned a great deal about how not to do things, and this bill presents us with another example. Instead of just taking up the Senate bill, we should have held a conference. We've been told we couldn't do that because there wasn't enough time. Well, instead of naming post offices, we should have rolled up our sleeves and gotten to work on negotiating. And now, 3 weeks and many post offices later, the majority says we have to take it or leave it.

□ 1530

One provision that raises questions is the so-called Tester amendment that was added to the Senate food safety bill. This provision will provide exemptions from food safety requirements based on a facility's or a farm's size. While we do not want to overly burden small facilities and small farms, we've learned in our committee hearings that food-borne pathogens don't care if you're a big facility or a small facility, a big farm or a small farm. They affect everyone.

A food safety issue in one facility or one farm can cause hundreds of illnesses and hundreds of millions of dollars in economic losses for farmers and small businesses. By allowing facilities exemptions from food safety requirements, we're setting our Nation up for the potential of future outbreaks. Our system is only as strong as its weakest link, and the Tester amendment will set up a system full of weak links.

This is just one example of the potential problems with this bill. These are problems we could have addressed through a conference, but, instead, we wasted 3 weeks and are being told, take it or leave it.

I urge my colleagues to vote ''no'' on this legislation so we can do it the right way in the next Congress.

I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Chairman Dingell, I want to thank you for all the hard work you have put in on this bill, and also Chairman WAXMAN. We worked on a bipartisan basis.

I rise today in strong support of the Food Safety Modernization Act. After 2 years of hard work, we're finally on the cusp of enacting landmark comprehensive food safety legislation.

The modernization of our food safety system is desperately needed. The current food regulatory regime was established in 1938 and hasn't been overhauled in 70 years. Since this time, the U.S. food supply has evolved into a global network made up of foreign products, processors, and growers over whom the U.S. has little or no control. Think about what a different world it was in 1938. That alone should be reason enough to update our food safety laws today.

Every time we have a food safety crisis, be it eggs or spinach or peppers or peanuts, we shake our heads at the vulnerability of our food supply and bemoan the fact that we don't have the tools to protect it. And these aren't isolated instances. Each year, 48 million Americans are sickened from consuming contaminated food, and as many as 3,000 to 5,000 of these people die.

The Food Safety Modernization Act will give the FDA the ability, the authority, and the resources to protect American consumers from contaminated food domestically and abroad. FDA will now better ensure food safety through more frequent inspections of food processing facilities, the development of a food trace-back system to pinpoint the source of food-borne illnesses, and enhanced powers to ensure that imported foods are safe. Perhaps most notably, the bill emphasizes prevention and safety that helps ensure that food is safe before it's distributed, before it reaches store shelves, before it reaches the kitchens of American families.

We have the most productive and most efficient food distribution system in the world, but we need to make sure that we have the safest food supply. American families need to know the food they select from grocery stores and the meals they put on their kitchen tables are safe.

Now, I'll say the bill before us isn't perfect, but it is a good bill, and it's backed by a diverse coalition that includes food producers, grocery manufacturers, and consumers. It has strong bipartisan support. Last year, the

House passed its version by a vote of 283–142. The Senate passed a bill nearly identical to the one before us today by a vote of 73–25. And this is an overwhelming show of support for legislation which will significantly protect the public health.

I'm proud we're passing this bill one more time. Today, of course, it will go to the President for his signature. He has said he would sign it. And I urge my colleagues to support this landmark legislation.

Mr. PITTS. Mr. Speaker, I yield 4 minutes to the ranking member on Agriculture, Representative LUCAS from Oklahoma.

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

Mr. LUCAS. Mr. Speaker, I rise again in opposition to H.R. 2751, originally dealing with the Cash for Clunkers and now containing the Senate language S. 510, the Food Safety and Modernization Act.

As I've stated repeatedly, I believe our Nation has the safest food supply in the world. I also believe that we must continually examine our food production and regulatory system and move forward with changes that will improve food safety.

This legislation is the product of a flawed process. It will lead to huge regulatory burdens on our Nation's farmers and ranchers. It will raise the cost of food for our consumers, and it contains very little that will actually contribute to the goal of food safety. It gives the Food and Drug Administration lots of additional authorities with no accountability. In fact, with the inclusion of the so-called Tester amendment, some argue that it is a step backwards.

Now, my concerns about the legislation are not limited to the unforgivable process. There are serious public policy concerns as well. The Tester amendment is an illustrative example. Intended to shield small and local producers from the burdens of the new food safety law, it is opposed by virtually all of the major organizations representing farmers and ranchers. Normally, these groups would be expected to support a provision that sought to protect their farmers and ranchers. But they oppose the Tester amendment and any legislation that contains it because it adds to the layers of food safety regulation by creating yet another tier of regulatory standards that will only confuse our consumers.

Further, by exempting small domestic companies from Federal standards, I fear, and this is a legitimate fear, that we will be required to exempt similarly sized companies in developing countries from our standards. This approach does not make food safer. It eliminates important consumer protection and puts our citizens at increased risk.

With respect to the Tester amendment, I question the value of any law that is so onerous to an industry that Senators believe segments of that industry should be excluded from it. It would be wise to reconsider the entire legislative approach.

Now, there are other problems as well in the bill. New regulation authority for food processing facilities will create what amounts to a Federal license to be in the food business. Registration of food processing facilities was originally envisioned as a commonsense way to help FDA identify facilities under the Bioterrorism Act of 2002. This bill turns it into a license to operate, making it unlawful to sell food without a registration license, and allowing FDA to suspend the company's registration. This is the type of government intrusion into commerce that Americans rejected in early November of this year.

Another provision of particular concern would mandate the Food and Drug Administration to set on-farm production performance standards. For the first time, we'd have the Federal Government prescribing how our farmers grow crops. Farming, the growing of crops and the raising of livestock, is the first organized activity pursued by man. We've been doing it for a long time, and we've been doing it without the FDA on the farm.

The vast majority of these provisions, along with the recordkeeping requirements, traceability, mandatory recall authority, will do absolutely nothing to prevent food-borne disease outbreaks from occurring but will do plenty, do plenty, to keep Federal bureaucrats busy. And these are all the sorts of things that could be worked out through the normal legislative process, but only if there's a process.

Mr. Speaker, let me return to where I started. We have the safest food supply in the world. Anyone who follows current events knows that our food production system faces ongoing food safety challenges, and I stand ready to work with my colleagues, all of my colleagues, to address those challenges.

Our Nation's farmers, ranchers, packers, processors, retailers, and consumers deserve better.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. STUPAK), who has been the chairman of our Oversight and Investigation Subcommittee, who's done the wonderful investigative work that has brought us to where we are in exposing the dangers to our food supply by imports and other things, with my commendations and good wishes.

□ 1540

Mr. STUPAK. I thank the gentleman for yielding and for the kind words. As I wrap up my 18 years in the U.S. House of Representatives, this is a good bill in which to wrap up a career. I first introduced food safety legislation along with Mr. DINGELL and Mr. PALLONE and now-Senator BROWNBACK in 1997. For 14 years we have been fighting to try to update our Nation's food safety laws.

And then as chair of Oversight and Investigations, we have held over 13 hearings on food-borne illnesses from spinach, peanut butter, jalapenos, and most recently tainted eggs. Why was all this necessary? As has been noted, our food laws have not been updated since 1938. And we know more and more of our foods are coming from different sources and different countries. But this year and each year approximately 77 million Americans become ill because of food-borne illnesses, 325,000 are hospitalized, and up to 5,000 Americans will die, some of our most vulnerable Americans, such as children and senior citizens, those whose immune systems have been weakened or are not fully developed.

But if you are a young child and you do survive, what kind of life do you have after you have spent time in a hospital getting a new kidney? You face a lifetime of medication and bankruptcy of your family. We must act now to pass this food safety bill. This bill contains many good provisions, including the trace-back provision, which is designed to make it easier to prevent and respond to outbreaks in food-borne illnesses.

This also has mandatory recall. Most Americans are shocked to know that the FDA does not have the right to recall food or unsafe drugs in this country. They do not have the right to have that recall, especially on food. So this will now make it mandatory. The FDA can remove tainted food as soon as possible. Still, despite all these improvements, more has to be done to protect Americans.

The FDA needs subpoena power. It is probably one of the few regulatory agencies that doesn't have subpoena power. We lost that when it went to the Senate. But if you are going to trace back, if you are going to get the records, if you are going to find where the food comes from, let's give the regulatory agency the power they need. Because corporate America unfortunately too often hides their records from us.

We need an adequate funding source. For this legislation to be successful, we have to have an adequate funding source, as we had in the House but was removed in the Senate. And country of origin label. More and more of our food, especially this time of the year in the winter months, comes from other countries. We need to know exactly where those sources of food come from. So I urge the next Congress to make these improvements.

And a word of caution. Without this bill and greater improvements to this bill, we cannot fully protect Americans from food-borne illnesses, either accidentally or those intentionally put forth by America's enemies. And make no mistake about it, our enemies will exploit our weak regulatory system when they know they can harm so many Americans through food-borne illnesses.

So I hope my colleagues today will join me in supporting this legislation.

It's a great piece of legislation. I would like to thank my colleagues who have worked so hard on this over the years with me, including Ms. DELAURO of Connecticut, but especially the members of the Energy and Commerce Committee who have worked with us, especially Chairman DINGELL, Chairman WAXMAN, Mr. PALLONE, Mr. UPTON, and Mr. BARTON.

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

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), the chairman of the Agriculture Appropriations Subcommittee, and very much interested in the matter before us. She has worked on it a long time.

Ms. DELAURO. Mr. Speaker, I rise today in support of this bill as a good and a necessary first step in reforming our food safety system and better protecting our families from food-borne illness. And I want to congratulate some of the longtime champions of food safety in this institution, such as Chairman HENRY WAXMAN, Chairman JOHN DINGELL, Subcommittee Chairman FRANK Pallone, Mr. BART STUPAK. And I say congratulations to them for successfully bringing this legislation through the House. I also want to acknowledge Senator HARKIN and Senator DURBIN for their work in facilitating passage of this bill in the Senate.

Among the critical reforms in this bill are increased inspection of high-risk facilities, expanded authority to inspect recall records, the formation of a more accurate food facility registry, improved traceability in the event of an illness outbreak, and improved surveillance of food-borne illness. The bill also requires certification of certain foreign food imports as meeting U.S. food safety requirements.

All of these tools will help improve the FDA's ability to respond to food-borne illness outbreaks and to hold industrial food production facilities to higher standards. For too long the cornerstone of our food safety system, the FDA, has had only ancient tools and an outdated mandate at its disposal. This bill will go a long way towards stemming the potential of a full-blown food-borne epidemic in the future. Recently, the CDC released an updated estimate on food-borne illness figures, and it remains a major public interest health threat. With nearly 50 million illnesses, 100,000 hospitalizations, and over 3,000 deaths each year, these estimates show that there is much work to be done in identifying and combating the pathogens that cause food-borne illness.

Just to tell you the importance of this bill, let me share with you the story of Haylee Berstein, a 17-year old girl who lives in Wilton, Connecticut. When Haylee was 3 years old, she ate unwashed lettuce that was contaminated with E. coli. She soon became extremely ill with what doctors called hemolytic uretic syndrome. The health effects of an E. coli illness are very painful. Haylee experienced traumatic damage to her kidneys and pancreas. She suffered severe bleeding in her brain. And that blood in her brain caused her to be temporarily blind. The doctors at Yale-New Haven Children's Hospital fought for 14 weeks to save her life. And to this day, Haylee still suffers from health problems such as diabetes, all because of food contaminated with E. coli. This should not happen to anyone. And as we know in this body, it can be prevented.

With all of this in mind, our food safety efforts should not, and will not, end today. Because this piece of legislation is not about roads and bridges and parks and other things that we do in this institution. This legislation is about life and death. While the FDA is charged with protecting a large majority of our food supply, the Food Safety and Inspection Service, FSIS at USDA, is responsible for ensuring the safety of meat and poultry products. After passing this bill today, we must begin to lay the foundation for science-based reform at FSIS as well. That is why I worked on language that would create a science-based panel, supported by a wide range of stakeholders, to analyze the food safety system at FSIS and develop the concept of what a modernized system would look like there.

This collaborative proposal is supported by the pertinent industries, consumer groups, and unions. I should emphasize that this plan would not interfere with the good work currently being done by Under Secretary Elisabeth Hagen at FSIS. And I look forward to working with all of my colleagues in the next Congress to move this proposal forward.

Ultimately, I believe, as do leaders across the aisle, that we must establish a single food safety agency. Currently, food safety responsibilities are fragmented across 15 Federal agencies and are governed by 71 interagency agreements. Food safety and public health experts, as well as the Government Accountability Office, have concluded that this fragmentation has created redundancies that have weakened our food safety response. We need to consolidate all of these food safety functions under one roof. This will provide an updated regulatory structure and strengthen oversight and surveillance activities to better protect our food supply.

I will continue to fight for this single agency. I believe it is needed to ensure that the food in our fridges and on our kitchen tables is safe. Nonetheless, the legislation we must pass today is a strong first step toward a safer food supply and reducing the number of preventable food-borne illnesses and deaths. I urge my colleagues to face this public health threat and to pass food safety legislation. Every parent who goes in to buy food needs to know that they are taking it home and it's safe for their children.

Mr. PITTS. I continue to reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes again to my good friend, the chairman of the Committee on Energy and Commerce, Mr. WAXMAN, for purposes of correcting the record on certain erroneous statements made.

Mr. WAXMAN. Mr. Speaker and my colleagues, the Senate only passed this bill a couple of nights ago. And so we have now the opportunity to vote to take it or reject it. Some on the other side of the aisle, Republicans, are saying we should reject the whole bill because of the Tester amendment, which exempts small farmer-producers and facilities. We didn't have that in our bill, and I would have preferred that the Senate had not adopted that provision. But I don't think it is a reason to vote against this whole bill.

This bill is a good bill. It is supported by the Consumer Federation of America, the Consumers Union, the National Consumers League, the Trust for America's Health, the American Public Health Association. And it's supported by major industry groups, the Food Marketing Institute, the Grocery Manufacturers Association, and the U.S. Chamber of Commerce.

Now, I would assume that some big operations don't like the fact that small ones are going to be exempt. They are only exempt from a couple of the provisions which Senator TESTER and the Senate Members thought were too burdensome. And some of these small operations are limited in their income, and therefore it might be too burdensome for them.

□ 1550

Republicans have suggested we should have gone to conference. If we had gone to conference, only one Senator could object and no conferees would be appointed by the Senate. So that burden we are being asked to have achieved is something we could not achieve in the short time available to us.

Let us not let this opportunity go by. We must adopt this legislation. If there are efforts to change it later on, fine. But this is an important bill that has been worked on for years. It had strong bipartisan support in the House. It had overwhelming bipartisan support in the Senate. And I want to clarify the record to point out that almost all the groups, the consumer groups and the industry groups, are urging an ''aye'' vote.

Mr. PITTS. I continue to reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I have only one further speaker on this side, so I suggest to my good friend from Pennsylvania, if he desires to speak, he should speak forthwith.

Mr. PITTS. I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. The gentleman is a complete gentleman. I don't want to deny him any opportunity to be heard. I want to thank the gentleman. He is always courteous. I express my gratitude to him for the way he behaves.

I yield myself 5 minutes, Mr. Speaker.

Mr. Speaker, this is not the first time we have seen this bill. It came out of the Committee on Energy and Commerce unanimously. It was informally referred to the Committee on Agriculture, where they had a chance to take a look at it. It passed the House overwhelmingly on two occasions in a slightly different form. It then came back here and it was passed yet another time with the changes virtually to make it identical to that form in which it is. Those changes have been removed in some regards because they were mostly simply technical changes. So it has passed this body three times before this. This is the fourth time we have considered it. The Senate has passed it twice. On Sunday night, they passed it under a unanimous consent procedure.

The bill has enormous support, and all of the consumer organizations support it. Almost every business group in the field of food manufacturing and processing supports it: The Grocery Manufacturers Association, the National Association of Manufacturers, the Chamber of Commerce, the Consumer Federation of America, the American Public Health Association, the Bakers Association, the Beverage Association, the American Public Health Association, Pew Charitable Trust, the U.S. PIRG, and also the Food Marketing Institute as well as the Center for Science in the Public Interest. There is literally little, if any, opposition to the consideration of this legislation.

The Senate took from last summer when the House passed the bill until just a few weeks ago to pass the bill over there. It only passed for the final time on Sunday night. I want to agree with my good friend from Pennsylvania; the House's skill as a legislative body is far superior to that of the other body, and if they would leave the legislation alone, I think I could assure the House that we would pass better legislation than they do over there.

But having said these things, we are about now to be forced at the last minutes of this session to choose between not passing a superb bill and passing no bill at all because we want to achieve a greater level of perfection.

This is the first significant change in food and drug law with regard to foods since 1938. At that time, you could test foods down to a few parts per thousand. Today, you can do it down to parts per billion and parts per trillion, and food is being affected by huge numbers of new, incredibly complex known and unknown molecules that are inserted.

The bill before us serves a basic and necessary and admirable purpose. It is going to have the purpose of seeing to it that the American consumer can again have confidence in the safety of their food supply.

Our manufacturers, our growers, and our processors do the best job in the world. The problem is we now import something like about one-quarter to one-third of our food supplies, and those food supplies are coming from places like China. And we have had some scandals of the most appalling character with regard to both domestic and imported food, but mostly with regard to imported food: bad seafood and shellfish from China, unsafe leafy vegetables like spinach and celery from China, bad berries and fruit from Chile and other places like that, peppers from Mexico that got mixed in with salsa and caused the collapse of the American tomato industry.

These are things that will be corrected by us having people available in Food and Drug to properly investigate, to properly correct and properly see to it that these unsafe foods don't get into our food chain, with the consequences not only that they poison Americans, but, worse, that they destroy American industry and cost us the faith of the American consuming public for some of the best manufacturers and processors in the world. The Chinese put melamine in milk. They sent us all manner of dangerous and unsafe food.

Now we are giving the agency, Food and Drug, the authority it needs. This does not invade the jurisdiction of the Agriculture Committee. It was very carefully kept to see to it that it stayed within the jurisdiction of the Commerce Committee.

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

Mr. DINGELL. I yield myself 2 additional minutes.

It creates a new focus on prevention, and it shares responsibility between FDA and the food manufacturers so that they can cooperatively work to keep the food supply safe, working together.

It also is going to require manufacturers to implement preventive systems to stop outbreaks before they occur, and it is going to allow our Food and Drug Administration, for the first time in history, to police and to protect the entry into this country of foods coming from abroad, where most of the peril to our American consumers lie.

It also is going to allow our investigators and Food and Drug people to see to it, and this is a word of art, that the American law with regard to good manufacturing practices is carried forward in those other lands so that bad food cannot originate elsewhere and then come in to the United States because of shoddy manufacturing practices.

It gives Food and Drug power to ensure that foreign importers meet U.S. standards, and it will assure that foreign growers and producers will be treated with the same care and attention that American growers and producers are so our growers and producers can know that they are facing an even and level playing field. It gives FDA new enforcement tools, mandatory recall authority, authority to detain tainted products, and protections for employees who serve as whistleblowers.

This legislation is long overdue. It will address a situation which is shameful.

Today, according to the latest statistics, 48 million Americans are sickened by bad food, some 128,000 are hospitalized, and 3,000 are killed yearly. We can dawdle around and let the House and the Senate wait until next year to perhaps pass a different bill. Whether it will be better or not is open to question.

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

Mr. DINGELL. I yield myself 1 additional minute.

Whether it will be better is open to question. But I will tell my colleagues, during that time there are going to be Americans sickened, there are going to be Americans killed, and there are going to be Americans hospitalized. American manufacturers and processors and growers are going to have the quality of their food products impinged, not by their carelessness or bad behavior but, rather, by the misbehavior of foreign producers, foreign manufacturers, and others who are sending things in here like milk products with melamine. Melamine is a constituent, believe it or not, of Formica.

□ 1600

It kills people. It kills babies. And China sells these products to their own people. If they will kill their own people with that kind of trash, imagine the glee with which they will sell that kind of trash over here to threaten the well-being and the safety and the trust of American consumers, businessmen, manufacturers, producers, and growers.

I beg you, the safety of your constituents, of our people, is at stake. And I hope you will work with me to pass this legislation so that we can make our consumers not only trust the system but also to know that it is going to work to protect them.

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

Mr. DINGELL. I yield myself 1 additional minute.

I hope if there's enthusiasm for doing further work on this, that my colleagues will join me next year in doing the same thing with regard to pharmaceuticals. And I remind you that the committee has worked not in opposition to American industry, but rather the committee has worked with American industry, which supports the legislation.

Would it be better if we were passing the House bill? Absolutely. Is it worse and weaker because we're passing the Senate bill? Of course. But having said that, you're making Americans safe in spite of the fact that the U.S. Senate has to take a ride with this legislation

to, quite frankly, the weakening of this legislation.

I want to commend my colleagues who have participated: Mr. WAXMAN, Mr. PALLONE, Mr. STUPAK, Ms. DEGETTE, and Ms. DELAURO. And I want to commend the staff: Katie Campbell, whose last day this is; Virgil Miller; Rachael Sher; Eric Flamm; and Emily Gibbons, who have made this possible. Our legislative counsel has labored vitally on it, and we owe real thanks to Warren Burke and Megan Renfrew.

I want to commend my Republican colleagues. I know that they're not supporting this legislation, and I grieve about that. But the harsh fact of the matter is they were very helpful in doing this in times past. And I want to pay particular tribute to Mr. SHIMKUS, Mr. Deal, and Mr. BARTON, but I do want it known that were it not for the labor of three great men in the other body, we would not be where we are. Senator HARKIN, Senator DURBIN, and Senator REID have contributed vitally to the success which we've had in making the American consuming public safe. And I hope that the people will understand we have served them well.

I urge my colleagues to vote for this bill, secure in the knowledge that you're protecting Americans and you're saving the lives and the health and the well-being of the American people by passing H.R. 2751.

I rise today in strong support of the FDA Food Safety Modernization Act and I urge my colleagues to vote in favor of this legislation with deliberate speed.

Mr. Speaker, consideration of this bill today is what I hope will be the final step of a long legislative journey. My colleagues in this body passed similar legislation last July. Some 17 months later, we are working on the same issue.

The legislative fits and starts is in no way a reflection of the policy, however, the legislation has been the hostage of political games and procedural missteps. The FDA Food Safety Modernization Act serves a necessary and admirable purpose—it will go a long way in boosting American consumer confidence in the safety of the nation's food supply. The many recalls that have confronted American consumers over the years—peanuts, melamine in milk, eggs, bad seafood and shellfish, unsafe leafy vegetables like spinach, bad berries and peppers—has called into question the ability of the government to adequately protect American consumers. The FDA Food Safety Modernization Act addresses this concern head on and grants the Food and Drug Administration—the Agency with oversight of 80 percent of the nation's food supply—the authorities and resources it needs to effectively do its job.

Among other things, the legislation will:

Create a new focus on prevention, and a shared responsibility between FDA and food manufacturers to keep the food supply safe. It will require manufacturers to implement preventive systems to stop outbreaks before they occur;

Require FDA to inspect food facilities—foreign and domestic—more frequently;

Grant FDA new authority to ensure that imported foods meet U.S. safety standards and will assure foreign growers and producers must be treated with the same care that American growers and producers are; and

Grant FDA new enforcement tools, including mandatory recall authority, authority to detain tainted products, and protection for employees who uncover food safety violations.

Mr. Speaker, enactment of this legislation is long overdue and necessary—necessary for the millions of Americans who suffer from foodborne illness each year, and the thousands who die from it each year.

We will bring to a halt a shameful situation where 48 million Americans are sickened by bad food, 128,000—yes 128,000 Americans—hospitalized and 3,000 people killed by bad food.

I strongly support the legislation before us today and urge my colleagues to cast an aye vote.

S. 510 SUPPORTERS

OBAMA ADMINISTRATION—FDA

American Bakers Association; American Beverage Association; American Public Health Association; Center for Foodborne Illness, Research & Prevention; Center for the Science In The Public Interest; Consumer Federation ot America; Consumers Union; Flavor and Extract Manufacturers Association; Food Marketing Institute; Grocery Manufacturers Association; Institute of Shortening & Edible Oils Inc.; International Dairy Foods Association; International Bottled Water Association; National Association of Manufacturers; National Coffee Association of U.S.A., Inc.; National Confectioners Association; National Consumers League; National Restaurant Association; The Pew Charitable Trusts; Snack Food Association; STOP—Safe Tables Our Priority; Trust For America's Health; U.S. Chamber of Commerce; and U.S. PIRG: Federation of State PIRGs.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in strong support of the FDA Food Safety Modernization Act.

H.R. 2751, the FDA Food Safety Modernization Act would help expand the FDA authority to inspect records relating to food while increasing inspections on high-risk on food facilities. Through passage of this bill, a more accurate registry of all food facilities serving American consumers would exist. It is important to provide safe and clean food for the American people, who deserve nothing but the best.

The safety and sanitation of food produced and distributed throughout the United States is of utmost importance. The health and well being of every person in this country hinges on the quality and effectiveness of the food inspection process. Without proper inspection, there is a possibility of contamination of foods and the spread of disease.

In the spring of 2008, a case of salmonella spread throughout the country as a result of a single tainted pepper from a South Texas produce warehouse. This strain of salmonella sickened 1,251 people, led to the hospitalization of 229 people, and sadly, two deaths. Once the origin of the salmonella outbreak was determined, the FDA and other federal agencies took action and required the responsible parties to recall all produce that they thought may have been tainted.

In the United States in 2010, at a time when we have the newest and greatest technologies at our disposal, outbreaks like the one mentioned should not take place. With improved and modernized safety inspections, such outbreaks can be avoided and prevented.

It is because of stories like this that I am ever so moved to ensure that H.R. 2751, the FDA Food Safety Modernization Act is passed in the House of Representatives and that it eventually becomes law.

Passage of the FDA Food Safety Modernization Act will prevent such salmonella scares from happening again in the future—in Texas or in any state in the country—for that matter.

This bill would also allow for improved traceability of the history of food in the event of a food borne illness outbreak. Often time, when our country has been faced by serious food poisoning that have affected thousands of American people, we do not know where the food was produced or cultivated. This bill would bring an end to that. It is important for us to be ever cautious that could affect the well being and health of our children, elderly and family members.

In addition to what I have mentioned, this bill would also make available a certificate of certain food imports—requiring all foods imported into the United States to meet all U.S. food safety requirements. The certificate would ensure that we are only allowing the safest and most healthy food into our country for consumption by the American people.

Another important component of this legislation would ensure protection of whistleblowers that bring attention to important safety information pertaining to the food regulation and food safety. It is most vital that we afford those people who may know information about certain food the opportunity to inform authorities about any concerns they may have with their consumption.

The bill contains important provisions that address the industry concerns, which include the elimination of the registration fee imposed on facilities participating in the food system. In addition, this legislation provides for a limited exemption for small food producers and processors that sell the majority of their food directly to consumers or to grocers within a circumscribed area and whose food sales are less than $500,000 per year.

The legislation before the House of Representatives is supported by a range of consumer and industry groups, including the American Public Health Association, the Center for Foodborne Illness Research and Prevention, the Center for Public Interest, the Consumer Federation of America, the Grocery Manufacturers Association, and the U.S. Chamber of Commerce.

It is time that we stand with this broad-based coalitions as we work to improve the food we eat and consume and know where exactly it's coming from. These actions will only help our country, families and our American people from having safety and consumer-friendly produce, meats and dairy.

Mr. FARR. Mr. Speaker, I would first like to thank Chairman WAXMAN and Chairman DINGELL for drafting a very strong food safety bill and leading a comprehensive debate by the House. Their legislation included three vital components that are all founded on a strong scientific base. I also want to commend them for including the teeth we need to implement mandatory recalls, as well as a commodity-specific approach to produce safety. Also important, the bill incorporated the flexibility we need to cover our growers, handlers, and processors.

Yet the Senate bill we will be voting on today, The FDA Food Safety Modernization

Act, fails to meet that high bar set by the original House bill. Because the version that is now before us has abandoned its original scientific base, I must sadly oppose this legislation.

Let me be clear: I understand the need for food safety reform all too well. The safety of America's supply of fresh fruits, vegetables and nuts will always be my highest priority. I know firsthand the impact an outbreak can have on an industry, and for that reason, understand the strong need for far reaching regulations based on the best science available.

The Center for Disease Control estimates, released December 15th, state that 48 million people in America—that's 1 in every 6—get sick every year from contaminated food. Furthermore, 128,000 are hospitalized and 3,000 die being exposed to this contaminated food. These are staggering numbers considering the United States still has the safest food supply in the world.

I also know each time any fruit or vegetable is implicated in an outbreak of food borne illness, the industry as a whole suffers from devastating loses in consumer confidence. In the long run, this is simply not sustainable, and it's certainly not acceptable for growers or consumers.

At the very least, our nation needs a minimum food safety standard that applies to every producer. And we need to help all growers small or large, comply with the regulations that will be promulgated from this legislation. Anything less falls short of true food safety reform, and could be a dangerous disservice to the American public.

The region I represent, California's Central Coast, is the top producing specialty crop region in the world. As such, I am proud to say that food safety is our region's industry's top priority. The men and women who grow, pack, and market fresh produce are committed to providing consumers with safe and wholesome foods from field to fork. Our local industry is constantly working to enhance and improve their performance in growing crops, harvesting and handling for distribution, packaging and processing into convenient ready-to-eat products. In addition to following all protocols to maintain the safest possible delivery chain—all the way to the consumer's table.

Mr. Speaker, Food Safety knows no price point—Salmonella, e. Coli and Listeria don't care if the food is grown conventionally or organically—or if the produce is grown on a large ranch or small farm. That's why provisions in this bill that exempt small producers from oversight are simply unacceptable and dangerous. We need policy based on sound science, and exempting certain sectors of the industry is not sound policy. Instead, we should be providing those small producers with the tools and incentives they need to meet the food safety standards we are voting on today.

Food producers are dedicated to continuously improving on-farm food safety practices—inclusion of exemptions from food safety laws is a huge step backward, and will send the wrong message to the food industry. Even worse, it will send the wrong message to the American consumer.

Congress needs to understand—just as my growers understand—that any fruit or vegetable implicated in an outbreak taints the entire agricultural industry. And those isolated instances are cumulative. If we allow small producers to avoid oversight, the outbreaks that are likely to occur will result in the harm of all growers, handlers, processors, and shippers.

I'm committed to ensuring that when food safety regulation does come to fruition, it is developed and implemented with industry input. And that it provides pragmatic food safety guidelines that are both feasible and effective for growers, processors, handlers, and consumers.

Mr. Speaker, this legislation does offer a step forward, but be certain that today we could have taken a leap forward.

I look forward to working with my colleagues, constituents and the agencies to developing meaningful scientifically based food safety standards. But unfortunately, I can not support this bill as it is presented to us from the Senate.

Mr. VAN HOLLEN. Mr. Speaker, I rise in support of this legislation that will provide the Food and Drug Administration, FDA, much-needed enhanced authorities to protect the American public from unsafe foods.

Serious gaps have been exposed in the FDA's ability to protect the American public from outbreaks of food-borne diseases. These outbreaks have shaken consumer confidence in the industry that produces one of our most basic and important commodities that Americans depend on daily—the food we eat.

While I prefer the stronger food safety bill that the House passed last year, the Senate-passed FDA Food Safety Modernization Act will make substantial improvements to our food safety system. It includes critical reforms that will improve the FDA's ability to better prevent outbreaks and protect the safety of our food supply and it will allow the FDA to conduct increased inspections, enhance surveillance and traceability of food products, and give the FDA the authority to issue mandatory recalls.

Mr. Speaker, we must ensure that the FDA has the necessary tools and resources to fulfill its vital mission of helping protect the American public from unsafe products. This food safety bill is an important part of that effort. I urge my colleagues to support this legislation.

Mr. DINGELL. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

The question is on the motion by the gentleman from Michigan (Mr. DINGELL).

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this question will be postponed.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, proceedings will now resume on the motion to concur in the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion by the gentleman from Tennessee (Mr. GORDON).

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

Mr. BROUN of Georgia. 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, this 15-minute vote on the motion to concur in the Senate amendment to H.R. 5116 will be followed by 5-minute votes on motions to concur with respect to H.R. 2142 and H.R. 2751 and the motion to suspend on S. 3243.

The vote was taken by electronic device, and there were—yeas 228, nays 130, not voting 75, as follows:

[Roll No. 659]

YEAS—228

Ackerman
Altmire
Andrews
Arcuri
Baldwin
Barrow
Bartlett
Bean
Becerra
Berkley
Berman
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly (IN)
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gerlach
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (NY)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reed
Reichert
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)

Serrano
Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Smith (NJ)
Snyder
Space
Speier
Spratt
Stupak
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Weiner
Welch
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth

NAYS—130

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bilirakis
Bishop (UT)
Blackburn
Blunt
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Cantor
Carter
Chaffetz
Coffman (CO)
Cole
Conaway
Davis (KY)
Diaz-Balart, M.
Djou
Dreier
Duncan
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman

NOT VOTING—75

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Boehner
Bright
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cao
Chu
Coble
Costello
Crenshaw
Culberson
Davis (AL)
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Fallin
Garamendi
Granger
Griffith
Gutierrez
Heller
Herseth Sandlin
Hodes
Honda
Hoyer
Inglis
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Lee (CA)
Linder
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Melancon
Miller, Gary
Mitchell
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Sires
Smith (WA)
Stark
Sutton
Tanner
Tonko
Wamp
Wasserman Schultz
Watson
Young (AK)
Young (FL)

□ 1631

Mr. TERRY changed his vote from ''yea'' to ''nay.''

Messrs. CHANDLER and BARTLETT changed their vote from ''nay'' to ''yea.''

So the motion 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. TONKO. Mr. Speaker, on rollcall No. 659, had I been present, I would have voted "yea."

Mr. GARAMENDI. I voice my strong support for the America COMPETES Reauthorization Act of 2010, H.R. 5116. Unfortunately during a busy legislative day, I missed the rollcall for this important bill, which passed the House of Representatives today. Had I been present on the House Floor, I would have cast an "aye" vote in favor of H.R. 5116.

GPRA MODERNIZATION ACT OF 2010

The SPEAKER pro tempore (Mr. OBEY). The unfinished business is the vote on adoption of the motion to concur in the Senate amendment to the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council, 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.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 216, nays 139, not voting 78, as follows:

[Roll No. 660]

YEAS—216

Ackerman
Altmire
Andrews
Arcuri
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Boccieri
Boren
Boswell
Boucher
Boyd
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Driehaus
Edwards (MD)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hirono
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Nye
Oberstar
Obey
Olver
Pallone
Pascrell
Payne
Perlmutter
Perriello
Peters
Pingree (ME)
Platts
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rodriguez
Rogers (AL)
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Smith (TX)
Snyder
Space
Speier
Spratt
Stupak
Sutton
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—139

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Biggert
Bilbray
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Cantor
Capito
Carter
Cassidy
Chaffetz
Coffman (CO)
Cole
Conaway
Davis (KY)
Djou
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Owens
Paul
Paulsen
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf

NOT VOTING—78

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Bilirakis
Blumenauer
Brady (PA)
Bright
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cao
Chu
Coble
Costello
Crenshaw
Culberson
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Edwards (TX)
Fallin
Gordon (TN)
Granger
Griffith
Gutierrez
Heller
Herseth Sandlin
Hinojosa
Hodes
Honda
Inglis
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Larson (CT)
Lee (CA)
Linder
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Melancon
Miller (NC)
Miller, Gary
Mitchell
Napolitano
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Peterson
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Sires

Smith (WA)
Stark
Tanner
Wamp
Wasserman Schultz
Watson
Young (AK)
Young (FL)

□ 1642

Mr. OWENS changed his vote from ''yea'' to ''nay.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NAPOLITANO. Mr. Speaker, on rollcall No. 660, had I been present, I would have voted "yea."

FDA FOOD SAFETY MODERNIZATION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the adoption of the motion to concur in the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, 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.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 215, nays 144, not voting 74, as follows:

[Roll No. 661]

YEAS—215

Ackerman
Altmire
Andrews
Arcuri
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Boccieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kanjorski
Kaptur
Kildee
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (NY)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Perlmutter
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rodriguez
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Snyder
Space
Speier
Spratt
Stupak
Sutton
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
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Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watson
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Waxman
Weiner
Welch
Wilson (OH)
Wolf
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Yarmuth

NAYS—144

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bono Mack
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Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Cantor
Capito
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Carter
Cassidy
Chaffetz
Childers
Coffman (CO)
Cole
Conaway
Costa
Davis (KY)
Diaz-Balart, M.
Dreier
Duncan
Emerson
Farr
Flake
Fleming
Forbes
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
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Gohmert
Goodlatte
Graves (GA)
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Hall (TX)
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Johnson (IL)
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Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marshall
McCaul
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McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence
Perriello
Peterson
Petri
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Poe (TX)
Posey
Price (GA)
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Roe (TN)
Rogers (AL)
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Rohrabacher
Rooney
Ros-Lehtinen
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Stearns
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman

NOT VOTING—74

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Bonner
Bright
Brown-Waite, Ginny
Buyer
Calvert
Camp
Campbell
Cao
Chu
Coble
Costello
Crenshaw
Culberson
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Fallin
Gordon (TN)
Granger
Griffith
Gutierrez
Heller
Herseth Sandlin
Hinojosa
Hirono
Hodes
Honda
Inglis
Johnson, Sam
Jones
Kagen
Kennedy
Kilpatrick (MI)
Kilroy
King (NY)
Lee (CA)
Linder
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Melancon
Miller, Gary
Mitchell
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Sires
Smith (TX)
Smith (WA)
Stark
Tanner
Wamp
Wasserman Schultz
Young (AK)
Young (FL)

□ 1649

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KAGEN. Mr. Speaker, on rollcall No. 661, I was present, placed my card into the voting device and did not look at the Board.

I voted "yes."

PERSONAL EXPLANATION

Mr. BACA. Mr. Speaker, please excuse me from session Tuesday, December 21, 2010. I have legislative business in the district. Had I been here, I would have voted in support of H. R. 5116—The America COMPETES Reauthorization Act of 2010, H. R. 2142—The GPRA (Government Performance and Results Act) Modernization Act of 2010 and H. R. 2751—The FDA Food Safety Modernization Act. In addition, I support funding our Federal Government by passage of a continuing resolution by year's end.

PERSONAL EXPLANATION

Mr. BLUMENAUER. Madam Speaker, due to an illness, I was unable to be in Washington, DC for votes today. Had I been present for the votes, I would have voted as follows:

Rollcall vote 658: I would have voted in favor of H.R. 6540, the Defense Level Playing Field Act.

Rollcall vote 659: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 5116, the America COMPETES Reauthorization Act of 2010.

Rollcall vote 660: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010.

Rollcall vote 661: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 5116, the FDA Food Safety Modernization Act. This long-overdue legislation will help ensure a safe food supply while taking into the realities and needs of America's farmers. I especially appreciate changes made by the Senate to meet the needs of very small farms and processors.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 659, 660, and 661.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Ladies and gentlemen, I know the consternation that exists with respect to our schedule and when we are going to leave. I want to announce what I believe to be the balance of the schedule tonight. I would hope that it would include, but cannot assert at this point in time because I don't know—and I don't believe it's the case—that 9/11 will be ready for us. They are still talking about it in the Senate. I just talked to Senator REID.

We will go to a suspension bill, the child sex trafficking bill. We will then go to the rule for the continuing resolution. We will then do the continuing resolution. That would, unless we get 9/11, conclude the business for today.

It is, as Senator REID indicates to me, a high likelihood that they will complete 9/11 sometime tomorrow. Now ''sometime tomorrow'' is, he says, no later than 4, as early as 2.

Ladies and gentlemen, I know we would all like to say that, well, let's go home. As you know, the 9/11 bill does, in fact, impact literally tens of thousands of people who participated subsequent to 9/11 in going into that building and initially looking for those who might still be surviving, and to look for those who did not survive and bring them out. So this is not a matter that does not have serious consequences for people who volunteered and, as a result of the atmosphere which confronted them as they went in, they became ill.

So I think all of us understand the seriousness of this bill and the consequences of not doing it. So I would ask you to bear with us. We will have these votes, and we will be in constant touch with Senator REID, the majority leader.

But my expectation is that there is a high likelihood of a vote on 9/11 sometime tomorrow. As a result, I would be asking all of you to stay tonight and be here tomorrow so that we can convene and do this very, very important business, which is not just important to the New Yorkers; this is important to our country. At any time we may have a catastrophe in which people would volunteer and show heroic effort to save lives and to rescue people.

That is the schedule for the balance of the day. If 9/11 moves over here at any point and, frankly, what is happening now, I tell my friends, is that they're seeing whether or not, during the course of the START debate, which is going on now, whether they can get a time agreement and bring START to a close and a vote. If they can do that and then go to 9/11 and have a debate which is relatively brief, they've obviously had a long-term debate on that, and bring this bill to us tonight, I know that all of you would want and I would want and we will do it tonight. But I cannot assert that I think the Senate is going to move it in that time frame.

That is our schedule. And, hopefully, our business will be concluded tomorrow on the passage of 9/11.

ANTI-BORDER CORRUPTION ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill (S. 3243) to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill.

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.

FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill (S. 3592) to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the ''First Lieutenant Robert Wilson Collins Post Office Building''.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and pass the bill.

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.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 1762

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that Representative FRANK Wolf be removed as a cosponsor of House Resolution 1762.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 3082, CONTINUING APPROPRIATIONS AND SURFACE TRANSPORTATION EXTENSIONS ACT, 2011

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111–694) on the resolution (H. Res. 1782) providing for consideration of the Senate amendment to the House amendment to the Senate 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 30, 2010, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. BALDWIN). 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.

□ 1700

DOMESTIC MINOR SEX TRAFFICKING DETERRENCE AND VICTIMS SUPPORT ACT OF 2010

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2925) to establish a grant program to benefit victims of sex trafficking, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the amendment is as follows:

Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Human trafficking is modern-day slavery. It is one of the fastest-growing, and the second largest, criminal enterprise in the world. Human trafficking generates an estimated profit of $32,000,000,000 per year, world wide.

(2) In the United States, human trafficking is an increasing problem. This criminal enterprise victimizes individuals in the United States, many of them children, who are forced into prostitution, and foreigners brought into the country, often under false pretenses, who are coerced into forced labor or commercial sexual exploitation.

(3) Sex trafficking is one of the most lucrative areas of human trafficking. Criminal gang members in the United States are increasingly involved in recruiting young women and girls into sex trafficking. Interviews with gang members indicate that the gang members regard working as an individual who solicits customers for a prostitute (commonly known as a ''pimp'') to being as lucrative as trafficking in drugs, but with a much lower chance of being criminally convicted.

(4) National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children, the definitive study of episodes of missing children, found that of the children who are victims of non-family abduction, runaway or throwaway children, the police are

alerted by family or guardians in only 21 percent of the cases. In 79 percent of cases there is no report and no police involvement, and therefore no official attempt to find the child.

(5) In 2007, the Administration of Children and Families, Department of Health and Human Services, reported to the Federal Government 265,000 cases of serious physical, sexual, or psychological abuse of children.

(6) Experts estimate that each year at least 100,000 children in the United States are exploited through prostitution.

(7) Children who have run away from home are at a high risk of becoming exploited through sex trafficking. Children who have run away multiple times are at much higher risk of not returning home and of engaging in prostitution.

(8) The vast majority of children involved in sex trafficking have suffered previous sexual or physical abuse, live in poverty, or have no stable home or family life. These children require a comprehensive framework of specialized treatment and mental health counseling that addresses post-traumatic stress, depression, and sexual exploitation.

(9) The average age of first exploitation through prostitution is 13. Seventy-five percent of minors exploited through prostitution have a pimp. A pimp can earn $200,000 per year prostituting 1 sex trafficking victim.

(10) Sex trafficking of minors is a complex and varied criminal problem that requires a multi-disciplinary, cooperative solution. Reducing trafficking will require the Government to address victims, pimps, and johns, and to provide training specific to sex trafficking for law enforcement officers and prosecutors, and child welfare, public health, and other social service providers.

(11) Human trafficking is a criminal enterprise that imposes significant costs on the economy of the United States. Government and non-profit resources used to address trafficking include those of law enforcement, the judicial and penal systems, and social service providers. Without a range of appropriate treatments to help trafficking victims overcome the trauma they have experienced, victims will continue to be exploited by criminals and unable to support themselves, and will continue to require Government resources, rather than being productive contributors to the legitimate economy.

(12) Human trafficking victims are often either not identified as trafficking victims or are mischaracterized as criminal offenders. Both private and public sector personnel play a significant role in identifying trafficking victims and potential victims, such as runaways. Examples of such personnel include hotel staff, flight attendants, health care providers, educators, and parks and recreation personnel. Efforts to train these individuals can bolster law enforcement efforts to reduce human trafficking.

(13) Minor sex trafficking victims are under the age of 18. Because minors do not have the capacity to consent to their own commercial sexual exploitation, minor sex trafficking victims should not be charged as criminal defendants. Instead, minor victims of sex trafficking should have access to treatment and services to help them recover from their sexual exploitation, and should also be provided access to appropriate compensation for harm they have suffered.

(14) Several States have recently passed or are considering legislation that establishes a presumption that a minor charged with a prostitution offense is a severely trafficked person and should instead be cared for through the child protection system. Some such legislation also provides support and services to minor sex trafficking victims who are under the age of 18 years old. These services include safe houses, crisis intervention programs, community-based programs, and law-enforcement training to help officers identify minor sex trafficking victims.

(15) Sex trafficking of minors is not a problem that occurs only in urban settings. This crime also exists in rural areas and on Indian reservations. Efforts to address sex trafficking of minors should include partnerships with organizations that seek to address the needs of such underserved communities.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the Attorney General should implement changes to the National Crime Information Center database to ensure that—

(A) a child entered into the database will be automatically designated as an endangered juvenile if the child has been reported missing not less than 3 times in a 1-year period;

(B) the database is programmed to cross-reference newly entered reports with historical records already in the database; and

(C) the database is programmed to include a visual cue on the record of a child designated as an endangered juvenile to assist law enforcement officers in recognizing the child and providing the child with appropriate care and services;

(2) funds awarded under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) (commonly known as Byrne Grants) should be used to provide education, training, deterrence, and prevention programs relating to sex trafficking of minors;

(3) States should—

(A) treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents;

(B) adopt laws that—

(i) establish the presumption that a child under the age of 18 who is charged with a prostitution offense is a minor victim of sex trafficking;

(ii) avoid the criminal charge of prostitution for such a child, and instead consider such a child a victim of crime and provide the child with appropriate services and treatment; and

(iii) strengthen criminal provisions prohibiting the purchasing of commercial sex acts, especially with minors;

(C) amend State statutes and regulations—

(i) relating to crime victim compensation to make eligible for such compensation any individual who is a victim of sex trafficking as defined in section 1591(a) of title 18, United States Code, or a comparable State law against commercial sexual exploitation of children, and who would otherwise be ineligible for such compensation due to participation in prostitution activities because the individual is determined to have contributed to, consented to, benefitted from, or otherwise participated as a party to the crime for which the individual is claiming injury; and

(ii) relating to law enforcement reporting requirements to provide for exceptions to such requirements for victims of sex trafficking in the same manner as exceptions are provided to victims of domestic violence or related crimes; and

(4) demand for commercial sex with sex trafficking victims must be deterred through consistent enforcement of criminal laws against purchasing commercial sex.

SEC. 4. SEX TRAFFICKING BLOCK GRANTS.

(a) IN GENERAL.—Section 204 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044c) is amended to read as follows:

"SEC. 204. ENHANCING STATE AND LOCAL EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

"(a) SEX TRAFFICKING BLOCK GRANTS.—

"(1) DEFINITIONS.—In this section—

"(A) the term 'Assistant Attorney General' means the Assistant Attorney General for the Office of Justice Programs of the Department of Justice;

"(B) the term 'eligible entity' means a State or unit of local government that—

"(i) has significant criminal activity involving sex trafficking of minors;

"(ii) has demonstrated cooperation between State, local, and, where applicable, tribal law enforcement agencies, prosecutors, and social service providers in addressing sex trafficking of minors;

"(iii) has developed a workable, multi-disciplinary plan to combat sex trafficking of minors, including—

"(I) the establishment of a shelter for minor victims of sex trafficking, through existing or new facilities;

"(II) the provision of rehabilitative care to minor victims of sex trafficking;

"(III) the provision of specialized training for law enforcement officers and social service providers for all forms of sex trafficking, with a focus on sex trafficking of minors;

"(IV) prevention, deterrence, and prosecution of offenses involving sex trafficking of minors;

"(V) cooperation or referral agreements with organizations providing outreach or other related services to runaway and homeless youth; and

"(VI) law enforcement protocols or procedures to screen all individuals arrested for prostitution, whether adult or minor, for victimization by sex trafficking and by other crimes, such as sexual assault and domestic violence; and

"(iv) provides an assurance that, under the plan under clause (iii), a minor victim of sex trafficking shall not be required to collaborate with law enforcement to have access to any shelter or services provided with a grant under this section;

"(C) the term 'minor victim of sex trafficking' means an individual who is—

"(i) under the age of 18 years old, and is a victim of an offense described in section 1591(a) of title 18, United States Code, or a comparable State law; or

"(ii) at least 18 years old but not more than 20 years old, and who, on the day before the individual attained 18 years of age, was described in clause (i) and was receiving shelter or services as a minor victim of sex trafficking;

"(D) the term 'qualified non-governmental organization' means an organization that—

"(i) is not a State or unit of local government, or an agency of a State or unit of local government;

"(ii) has demonstrated experience providing services to victims of sex trafficking or related populations (such as runaway and homeless youth), or employs staff specialized in the treatment of sex trafficking victims; and

"(iii) demonstrates a plan to sustain the provision of services beyond the period of a grant awarded under this section; and

"(E) the term 'sex trafficking of a minor' means an offense described in subsection (a) of section 1591 of title 18, United States Code, the victim of which is a minor.

"(2) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Assistant Attorney General, in consultation with the Assistant Secretary for Children and Families of the Department of Health and Human Services, is authorized to award block grants to 6 eligible entities in different regions of the United States to combat sex trafficking, and not fewer than 1 of the block grants shall be awarded to an eligible entity with a State population of less than 5,000,000. Each eligible entity awarded a block grant under this subparagraph shall certify that Federal

funds received under the block grant will be used to combat only interstate sex trafficking.

''(B) GRANT AMOUNT.—Subject to the availability of appropriations under subsection (g) to carry out this section, each grant awarded under this section shall be for an amount not less than $2,000,000 and not greater than $2,500,000.

''(C) DURATION.—

''(i) IN GENERAL.—A grant awarded under this section shall be for a period of 1 year.

''(ii) RENEWAL.—

''(I) IN GENERAL.—The Assistant Attorney General may renew a grant under this section for two 1-year periods.

''(II) PRIORITY.—In awarding grants in any fiscal year after the first fiscal year in which grants are awarded under this section, the Assistant Attorney General shall give priority to applicants that received a grant in the preceding fiscal year and are eligible for renewal under this subparagraph, taking into account any evaluation of such applicant conducted pursuant to paragraph (5), if available.

''(D) CONSULTATION.—In carrying out this section, consultation by the Assistant Attorney General with the Assistant Secretary for Children and Families of the Department of Health and Human Services shall include consultation with respect to grantee evaluations, the avoidance of unintentional duplication of grants, and any other areas of shared concern.

''(3) USE OF FUNDS.—

''(A) ALLOCATION.—For each grant awarded under paragraph (2)—

''(i) not less than 67 percent of the funds shall be used by the eligible entity to provide shelter and services (as described in clauses (i) through (iv) of subparagraph (B)) to minor victims of sex trafficking through qualified nongovernmental organizations; and

''(ii) not less than 10 percent of the funds shall be awarded by the eligible entity to one or more qualified nongovernmental organizations with annual revenues of less than $750,000, to provide services to minor victims of sex trafficking or training for service providers related to sex trafficking of minors.

''(B) AUTHORIZED ACTIVITIES.—Grants awarded pursuant to paragraph (2) may be used for—

''(i) providing shelter to minor victims of trafficking, including temporary or long-term placement as appropriate;

''(ii) providing 24-hour emergency social services response for minor victims of sex trafficking;

''(iii) providing minor victims of sex trafficking with clothing and other daily necessities needed to keep such victims from returning to living on the street;

''(iv) case management services for minor victims of sex trafficking;

''(v) mental health counseling for minor victims of sex trafficking, including specialized counseling and substance abuse treatment;

''(vi) legal services for minor victims of sex trafficking;

''(vii) specialized training for law enforcement personnel, social service providers, and public and private sector personnel likely to encounter sex trafficking victims on issues related to the sex trafficking of minors;

''(viii) funding salaries, in whole or in part, for law enforcement officers, including patrol officers, detectives, and investigators, except that the percentage of the salary of the law enforcement officer paid for by funds from a grant awarded under paragraph (2) shall not be more than the percentage of the officer's time on duty that is dedicated to working on cases involving sex trafficking of minors;

''(ix) funding salaries for State and local prosecutors, including assisting in paying trial expenses for prosecution of sex trafficking offenders;

''(x) investigation expenses for cases involving sex trafficking of minors, including—

''(I) wire taps;

''(II) consultants with expertise specific to cases involving sex trafficking of minors;

''(III) travel; and

''(IV) any other technical assistance expenditures;

''(xi) outreach and education programs to provide information about deterrence and prevention of sex trafficking of minors; and

''(xii) programs to provide treatment to individuals charged or cited with purchasing or attempting to purchase sex acts in cases where—

''(I) a treatment program can be mandated as a condition of a sentence, fine, suspended sentence, or probation, or is an appropriate alternative to criminal prosecution; and

''(II) the individual was not charged with purchasing or attempting to purchase sex acts with a minor.

''(C) PROHIBITED ACTIVITIES.—Grants awarded pursuant to paragraph (2) shall not be used for medical care (as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg-91)), except that grants may be used for mental health counseling as authorized under subparagraph (B)(v).

''(4) APPLICATION.—

''(A) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Assistant Attorney General at such time, in such manner, and accompanied by such information as the Assistant Attorney General may reasonably require.

''(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

''(i) describe the activities for which assistance under this section is sought; and

''(ii) provide such additional assurances as the Assistant Attorney General determines to be essential to ensure compliance with the requirements of this section.

''(5) EVALUATION.—The Assistant Attorney General shall enter into a contract with an academic or non-profit organization that has experience in issues related to sex trafficking of minors and evaluation of grant programs to conduct an annual evaluation of grants made under this section to determine the impact and effectiveness of programs funded with grants awarded under paragraph (2).

''(b) MANDATORY EXCLUSION.—Any grantee awarded funds under this section that is found to have utilized grant funds for any unauthorized expenditure or otherwise unallowable cost shall not be eligible for any grant funds awarded under the block grant for 2 fiscal years following the year in which the unauthorized expenditure or unallowable cost is reported.

''(c) COMPLIANCE REQUIREMENT.—A grantee shall not be eligible to receive a grant under this section if within the last 5 fiscal years, the grantee has been found to have violated the terms or conditions of a Government grant program by utilizing grant funds for unauthorized expenditures or otherwise unallowable costs.

''(d) ADMINISTRATIVE CAP.—The cost of administering the grants authorized by this section shall not exceed 3 percent of the total amount appropriated to carry out this section.

''(e) AUDIT REQUIREMENT.—For fiscal years 2012 and 2013, the Inspector General of the Department of Justice shall conduct an audit of all 6 grantees awarded block grants under this section.

''(f) MATCH REQUIREMENT.—A grantee of a grant under this section shall match at least 25 percent of a grant in the first year, 40 percent in the second year, and 50 percent in the third year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $15,000,000 for each of the fiscal years 2012 through 2014.''.

(b) SUNSET PROVISION.—Effective 3 years after the date of enactment of this Act, section 204 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044c) is amended to read as it read on the day before the date of enactment of this Act.

(c) GAO EVALUATION.—Not later than 30 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of and submit to Congress a report evaluating the impact of this Act and the amendments made by this Act in aiding minor victims of sex trafficking in the United States and increasing the ability of law enforcement agencies to prosecute sex trafficking offenders, which shall include recommendations, if any, regarding any legislative or administrative action the Comptroller General determines appropriate.

SEC. 5. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENT FOR STATE CHILD WELFARE AGENCIES.—

(1) REQUIREMENT FOR STATE CHILD WELFARE AGENCIES TO REPORT CHILDREN MISSING OR ABDUCTED.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(A) in paragraph (32), by striking ''and'' after the semicolon;

(B) in paragraph (33), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (33) the following:

''(34) provides that the State has in effect procedures that require the State agency to promptly report information on missing or abducted children to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code.''.

(2) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations implementing the amendments made by paragraph (1). The regulations promulgated under this subsection shall include provisions to withhold Federal funds from any State that fails to substantially comply with the requirement imposed under the amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 6 months after the date of the enactment of this Act, without regard to whether final regulations required under paragraph (2) have been promulgated.

(b) ANNUAL STATISTICAL SUMMARY.—Section 3701(c) of the Crime Control Act of 1990 (42 U.S.C. 5779(c)) is amended by inserting '', which shall include the total number of reports received and the total number of entries made to the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code.'' after ''this title''.

(c) STATE REPORTING.—Section 3702 of the Crime Control Act of 1990 (42 U.S.C. 5780) is amended in paragraph (4)—

(1) by striking ''(2)'' and inserting ''(3)'';

(2) in subparagraph (A), by inserting '', and a photograph taken within the previous 180 days'' after ''dental records'';

(3) in subparagraph (B), by striking ''and'' after the semicolon;

(4) by redesignating subparagraph (C) as subparagraph (D); and

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

''(C) notify the National Center for Missing and Exploited Children of each report received relating to a child reported missing from a foster care family home or childcare institution; and''.

SEC. 6. PROTECTION FOR CHILD TRAFFICKING VICTIMS AND SURVIVORS.

Section 225(b) of the Trafficking Victims Reauthorization Act of 2008 (22 U.S.C. 7101 note) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

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

''(2) protects children exploited through prostitution by including safe harbor provisions that—

''(A) treat an individual under 18 years of age who has been arrested for offering to engage in or engaging in a sexual act with another person in exchange for monetary compensation as a victim of a severe form of trafficking in persons;

''(B) prohibit the charging or prosecution of an individual described in subparagraph (A) for a prostitution offense;

''(C) require the referral of an individual described in subparagraph (A) to comprehensive service or community-based programs that provide assistance to child victims of commercial sexual exploitation, to the extent that comprehensive service or community-based programs exist; and

''(D) provide that an individual described in subparagraph (A) shall not be required to prove fraud, force, or coercion in order to receive the protections described under this paragraph; and''.

SEC. 7. PROTECTION OF CHILD WITNESSES.

Section 1514 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''or its own motion,'' after ''attorney for the Government''; and

(ii) by inserting ''or investigation'' after ''Federal criminal case'' each place it appears;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

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

''(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.'';

(D) in paragraph (4), as so redesignated, by striking ''(and not by reference to the complaint or other document)''; and

(E) in paragraph (5), as so redesignated, in the second sentence, by inserting before the period at the end the following: '', except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness''; and

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

''(c) Whoever knowingly and intentionally violates or attempts to violate an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

''(d)(1) As used in this section—

''(A) the term 'course of conduct' means a series of acts over a period of time, however short, indicating a continuity of purpose;

''(B) the term 'harassment' means a serious act or course of conduct directed at a specific person that—

''(i) causes substantial emotional distress in such person; and

''(ii) serves no legitimate purpose;

''(C) the term 'immediate family member' has the meaning given that term in section 115 and includes grandchildren;

''(D) the term 'intimidation' means a serious act or course of conduct directed at a specific person that—

''(i) causes fear or apprehension in such person; and

''(ii) serves no legitimate purpose;

''(E) the term 'restricted personal information' has the meaning give that term in section 119;

''(F) the term 'serious act' means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

''(G) the term 'specific person' means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

''(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.''.

SEC. 8. SENTENCING GUIDELINES.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure—

(1) that the guidelines provide an additional penalty increase, if appropriate, above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual if the defendant was convicted of a violation of section 1591 of title 18, United States Code, or chapters 109A, 109B, 110 or 117 of title 18, United States Code; and

(2) if the offense described in paragraph (1) involved causing or threatening to cause physical injury to a person under 18 years of age, in order to obstruct the administration of justice, an additional penalty increase, if appropriate, above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual.

SEC. 9. PENALTIES FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(b)(2) of title 18, United States Code, is amended by inserting after ''but if'' the following: ''any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if''.

(b) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b)(2) of title 18, United States Code, is amended by inserting after ''but, if'' the following: ''any image of child pornography involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if''.

SEC. 10. REDUCING UNNECESSARY PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to—

(1) determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs beginning with fiscal year 2012, except that the Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available;

(2) establish government-wide Federal guidelines on employee printing;

(3) issue on the Office of Management and Budget's public website the results of a cost-benefit analysis on implementing a digital signature system and on establishing employee printing identification systems, such as the use of individual employee cards or codes, to monitor the amount of printing done by Federal employees, except that the Director of the Office of Management and Budget shall ensure that Federal employee printing costs unrelated to national defense, homeland security, border security, national disasters, and other emergencies do not exceed $860,000,000 annually for fiscal years 2012 through 2014; and

(4) issue guidelines requiring every department, agency, commission or office to list at a prominent place near the beginning of each publication distributed to the public and issued or paid for by the Federal Government the following:

(A) The name of the issuing agency, department, commission or office.

(B) The total number of copies of the document printed.

(C) The collective cost of producing and printing all of the copies of the document.

(D) The name of the firm publishing the document.

SEC. 11. ADMINISTRATIVE SUBPOENAS.

Section 3486(a)(1)(D) of title 18, United States Code, is amended by inserting ''2250,'' after ''2243,''.

SEC. 12. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that

all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, the primary purpose of this bill is to provide, for the first time, specific programs to assist children who are victims of the brutal and devastating scourge of domestic child sex trafficking in this country.

S. 2925 authorizes grants to appropriate victims services entities to create comprehensive victim-centered approaches to address the sex trafficking of minors. In particular, this legislation allows funds under the Byrne and JAG Grant Programs to be used to provide education, training, deterrence, and prevention programs related to sex trafficking of minors. It also provides funding to implement the improvements in the National Crime Information Center. In addition, this legislation strengthens laws aimed at apprehending and punishing domestic traffickers, while also improving the ability of law enforcement and other entities to find, rescue, and assist child victims.

Importantly, S. 2925 also encourages States to treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents. We have made steady progress in recent years in addressing international sex trafficking of minors, as well as adults, under the Trafficking Victims Protection Act, which passed Congress in 2000 on a strong bipartisan basis. It was most recently reauthorized by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which I was pleased to help develop and shepherd through the House.

We have worked for some time through legislation and other efforts, such as the Congressional Caucus on Sex Trafficking, which I cochair with the gentlelady from New York (Mrs. MALONEY), the gentleman from New Jersey (Mr. SMITH), and the gentlelady from Texas (Ms. GRANGER), to bring more attention to the need to better address the issue of domestic sex trafficking, particularly trafficking of minors. Unfortunately, we have encountered barriers to having it recognized that these children are victims in the domestic sex trade and not criminals.

Now, under the leadership of the Senator from Oregon, Senator WYDEN, and House Members of the Congressional Caucus on Sex Trafficking, this is finally changing. We finally have legislation before us that not only recognizes that children caught up in domestic sex trafficking are victims, but also addresses the unique needs of these child victims in being rescued and helping them pursuing a productive life.

We are amending the Senate bill to remove certain nonessential elements of the bill, and I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself as much time as I may consume.

Today the House considers this important bill, S. 2925, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010. The bill was introduced by Senator RON WYDEN of Oregon and was recently amended and passed in the Senate by unanimous consent. We had a similar bill introduced in the House this year by my friends Mr. SMITH from New Jersey and Mrs. MALONEY from New York. I would like to thank them both for their leadership on this important issue.

Domestic minor sex trafficking is modern-day slavery and a scourge on our society. According to Shared Hope International, at least 100,000 minor children are used in prostitution every year in just the United States. Some sources estimate the number of minors may be as high as 300,000, though the actual number is difficult to really track. Girls as young as 11 years of age are sold on Internet Web sites, exploited by men for their youth and by gangs for their quote, ''reusable qualities.'' These traffickers and the customers who buy them are the filth of humanity.

In my other life, I was a judge in Texas, and a former Texas Ranger told me, ''Judge, when you find one of these traffickers in court, just get a rope.'' Not that we'd do that, but this is how bad this crime is affecting our communities.

In my hometown of Houston, Texas, we have a Human Trafficking Rescue Alliance. It's one of 42 in the Nation. Texas is a tier 1 trafficking State, and Houston, unfortunately, is a hub for human trafficking. This means that the Rescue Alliance is on the front lines of the war against trafficking. They are doing all they can to combat trafficking in Texas and other States. But I hear from them over and over again they just need more resources to care for the victims of domestic minor sex trafficking.

Too often in our system, crime victims, those women, those young girls who are sold into slavery, are treated like criminals. They are not criminals. They are victims of crime. And it's time we, as a community, treat them as victims, not criminals.

Senator WYDEN's bill, S. 2925, addresses the problem by authorizing the Department of Justice, in working with the Department of Health and Human Services, to award grants to organizations in six regionally diverse locations that provide services for child sex trafficking victims. Such services may include temporary and long-term placement of victims, as well as 24-hour emergency services. The funding may also be used to provide mental health counseling. Most importantly, funding may be used for specialized training for law enforcement officials and social service providers to properly identify and care for minor trafficking victims.

When this legislation passed the Senate, important amendments were added to strengthen the ability of law enforcement officials to further prevent the sexual exploitation of children. Unfortunately, a number of these amendments were stripped before the bill was brought to the House floor. I disagree with that approach. We need tougher laws, not weaker laws, to apprehend, convict, and incarcerate traffickers and those who buy young girls for sex.

This bill is a good first start toward building our capacity to care for the victims of domestic minor sex trafficking. Not one more American child, not one more kid should be allowed to wander our streets with their innocence for sale.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield 4 minutes to the gentlelady from New York (Mrs. MALONEY), who has been working hard on this bill and has been a leader in making sure this bill continues and has been very instrumental in making sure it saw the floor today.

Mrs. MALONEY. I thank the gentleman for his kind statement and yielding to me.

Madam Speaker, I rise in strong support of S. 2925, the Senate companion to my bill in the House, H.R. 5575, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010, a bipartisan bill I introduced with Representative CHRIS SMITH and have worked on with JACKIE SPEIER and Chairman BOBBY SCOTT and others.

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I am grateful to Senator WYDEN for his leadership on this extremely important and devastating issue that is found right here in our own backyards, and to Chairman BOBBY SCOTT for his strong support and a record of action on this issue. I thank him for holding a hearing on this bill, having numerous meetings, and for his vital input into the bill.

What we do today will impact the thousands of girls who have been duped, kidnapped, drugged, and forced into selling their young bodies for sex. It is truly a national tragedy. Too many people believe that child sex trafficking is a problem that exists only in foreign countries, but experts estimate that a minimum of 100,000 children in the United States, most of whom are American citizens, are exploited through commercial sex trafficking every year. The National Center For Missing and Exploited Children estimates that there are as many as 300,000 to 400,000 missing children and that most of them are in this terrible sex trade.

Although it is hard to believe, the average age of first exploitation is 12 to 13 years old. In the years I have worked on this issue, the age keeps getting younger and younger and younger for

these children. These are our daughters, their schoolmates, and their friends.

As founder and cochair of the Human Trafficking Caucus, I have been working for years to end the slavery of the 21st century, the trade in human lives for sex. Human trafficking is a $10 billion industry worldwide. It is the third-largest organized crime ring in history, preceded only by drugs and guns. But unlike drugs and guns, which can be sold only once, the human body can be sold over and over again, and, sadly, a young girl of 12 or 13 is at even greater risk of being sold for a much longer period of time, usually until they die.

Despite the need, a Congressional Research Service report that I requested found that funding for specialized services and support for these young girls, these victims of domestic minor sex trafficking, are very, very limited or nonexistent. Throughout the country, organizations helping them collectively have fewer than 100 beds to address the needs of an estimated 100,000 young children each year. This is simply unacceptable. This bill responds to the problem and gives law enforcement the tools to investigate and prosecute sex traffickers who exploit underage girls and force them into the sex trade.

A pimp selling just four children can earn over $600,000 a year. The risks are low and the gain is high. We live in a country where a person is more likely to serve time for selling marijuana than selling a 14-year-old girl. This bill will change that and treat these young women as crime victims, not as criminals. It will create a six-State pilot program to help law enforcement crack down on pimps and traffickers, create shelters, and provide treatment, counseling, and legal aid for the underage girls that are forced into sexual slavery.

Importantly, the legislation will strengthen deterrence and prevention programs aimed at potential buyers.

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

Mr. SCOTT of Virginia. I yield an additional minute.

Mrs. MALONEY of New York. This bill cracks down on sex trafficking by focusing on the demand side, the users. The bill will be considered a model to help rescue the hundreds of thousands of under-aged girls believed to be forced into the sex trade in America.

With this bill, we renew our promise of the 13th Amendment to the Constitution and redouble our efforts in the fight against human trafficking, the 21st century form of slavery. We set up a new standard to combat the sex trafficking of children in the U.S., and we accept our moral obligation to help the neglected victims of this horrible crime and crack down on their abusers.

We must not let our children suffer any more. I urge my colleagues to vote unanimously for this bill.

Mr. POE of Texas. Madam Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), who has been instrumental in this legislation.

Mr. SMITH of New Jersey. I thank my good friend Judge POE for yielding, and I rise in very strong support of the legislation. I want to thank Chairman SCOTT and CAROLYN MALONEY, with whom I have worked very closely on the House companion bill.

I will say at the outset, Madam Speaker, as the prime sponsor of the historic law to combat human trafficking known as the Trafficking Victims Protection Act of 2000, and as a Member of Congress who has devoted more than 15 years seeking to prevent trafficking, protect victims from exploitation and abuse, and prosecute those who enslave with up to life imprisonment, I am happy to say that in many of our States, laws have been passed that closely mirror the TVPA so that they too now have powerful weapons and tools to use against those who would so cruelly mistreat others through trafficking.

Just by way of definition, you are considered a trafficking victim if you have not yet attained the age of 18 and have been sold for commercial sexual exploitation or for labor trafficking, or if you are 18 or over and there is an element of force, fraud, or coercion. So I do rise in strong support of this bill which takes us even further, S. 2925.

Madam Speaker, human trafficking, or modern day slavery, is the third most lucrative criminal activity in the world. The ILO estimates illicit profits gleaned each and every year as something on the order of $31 billion. Under both Presidents Bush and Obama, domestic task forces to combat human trafficking have been established in over 40 cities, almost 900 American children have been rescued, and much thanks is owed to the FBI, State police, and local law enforcement.

Still, Madam Speaker, much more needs to be done. The National Center For Missing and Exploited Children believes that at least 100,000 American children, perhaps tens of thousands more, some estimates put it as high as 300,000, mostly runaway girls, average age 13, are exploited in the commercial sex industry each year.

S. 2925 seeks to address the lack of shelter, the lack of a safe place to go for domestic trafficking victims. As CAROLYN MALONEY said a moment ago, estimates may be as few as 100 beds—some put it at 50—and that is unconscionable.

As highly vulnerable victims, juvenile detention or some type of incarceration just doesn't meet the need. These girls require a place, a safe haven, a place where they can go where they will be helped to deal with the huge trauma that they have experienced.

The legislation authorizes six pilot grants of between $2.2 million to $2.5 million each in order to provide safe havens and psychological care to address trauma. The legislation also provides law enforcement training and beefs up reporting requirements so that missing children are immediately entered into the national missing children's database, the latter so that law enforcement finds a missing girl before the pimps do.

Madam Speaker, this is a good bill, it is a bipartisan bill, and will very tangibly assist our young runaways who sadly are so cruelly exploited by human traffickers.

As prime sponsor of the historic law to combat human trafficking—the Trafficking Victims Protection Act of 2000—and as a Member of Congress who has devoted more than 15 years seeking to prevent trafficking, protect victims from exploitation and abuse and prosecute those who enslave up to life imprisonment, I rise in strong support of S. 2925.

Human Trafficking—modern day slavery—is the third most lucrative criminal activity in the world. The ILO estimates illicit profits of over $31 billion a year.

Under both presidents Bush and Obama, domestic task forces to combat human trafficking have been established in over 40 cities. Almost 900 American children have been rescued and much thanks is owed to the FBI, state police, and local law enforcement.

Still, much more needs to be done. The National Center for Missing and Exploited Children and Shared Hope International believe that at least 100,000 American children, perhaps tens of thousands more, mostly runaway girls of the average age of 13 years old, are exploited in the commercial sex industry each year.

S. 2925 seeks to address the lack of shelter—the lack of safe place to go—for domestic trafficking victims. One estimate is that there are between 50 and 100 beds for victims of domestic trafficking.

As highly vulnerable victims, private detention or some other type of incarceration fails to recognize these young girls as cruelly exploited victims desperately in need of help.

The legislation authorizes 6 pilot grants of $2–2.5 million in order to provide safe havens and psychological care to address trauma.

The legislation also provides for law enforcement training and keys up reporting requirements so that missing children are immediately entered into the national missing children database—the latter so that law enforcement finds a missing girl before the pimps do.

Madam Speaker, my distinguished colleague CAROLYN MALONEY and I crafted the House version of the pending bill in a way that absolutely precluded the use of funds authorized by the bill from being used to subsidize the killing of the child in the womb by abortion. S. 2925 as amended includes the identical language.

The Gentlelady from New York and I have deep differences on abortion, but worked in a spirit of cooperation and resolve in order to tangibly assist domestic victims of trafficking.

Mr. SCOTT of Virginia. Madam Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN), a very strong supporter of the legislation and one who represents a shelter in his district that he is a strong supporter of.

Mr. MORAN of Virginia. Madam Speaker, I thank my very good friend and extraordinary leader on the Judiciary Committee, Congressman BOBBY

SCOTT. I appreciate your principle, Congressman SCOTT, and I am not surprised of your strong backing, nor am I of the fact that CAROLYN MALONEY and CHRIS SMITH authored this.

This bill is clearly bipartisan. There is really no reason to oppose this and every reason for this entire Congress to get behind it.

You know, the horrible situation we're addressing could happen to anyone, really, anyone that has a family. We are talking about adolescent girls, girls who are growing up. Sometimes they have a challenging family environment, but oftentimes it is simply the challenge of being an adolescent, lots of emotional issues and all. So sometimes they will run away, trying to prove something to their parents or whatever.

Oftentimes they go to a shopping mall. The mall closes down. They are afraid to go back right away to their parents. A predator starts circling the mall, an older guy, somebody that suggests they will get them food or whatever, find them a place to stay, and they trust them.

□ 1720

Oftentimes that little girl is raped, given drugs, and then she's threatened that what has happened to her is going to be exposed to her parents or to her peers. She's scared to death, and so she's afraid to break away.

In every one of these sex trafficking cases, this is about a form of slavery where the victim wants to escape and has nowhere to go. Unfortunately, as much as the need is enormous, as Mrs. MALONEY and Mr. SMITH said, 100,000—maybe it's 300,000—of these young girls, we have only a hundred shelter beds. Far too few of them. Most municipalities, particularly today, don't have the money. But there's also a whole lot of zoning issues and political reaction, NIMBYism. A neighborhood will say, Well, this is very important, just not in my neighborhood. But there's another neighborhood, for sure.

But a hundred beds is all we've got. We're not going to get more unless the Federal Government takes the initiative, provides the funding. And this is tough. Initially, they have to put up a quarter of the cost. Then it's 40 percent. By the third year, they have to find 50 percent of the funding. And by the fourth year, when these girls are dependent upon the shelter, they have to find all other funding. So this is no handout. This is just a kick-start to get communities to do something that's terribly important.

I know Mr. SMITH particularly knows all the sex trafficking that goes on around the world. We're appalled at Cambodia and Thailand and Russia and say, Well, how can this happen? And yet it's pervasive within our own society. We would rather look the other way, not knowing about it; but it's there. And we've got to do something about it.

This bill does something about it. It establishes a foundation. It will create model programs. And then what will happen is other communities realize the need. Some parents will start to speak up. And, most importantly, the victims will be empowered and secure enough to speak up themselves. They are leading this effort.

We have a shelter called Courtney's House. A young adolescent victim of sex trafficking, she named it after her daughter. It's her life's work now. We've got to do this. It's the right thing. No good reason to oppose it. And I appreciate the fact that it's bipartisan. This should be one of the last bills this Congress passes because, hopefully, it will be something we can all be very proud of.

Mr. POE of Texas. Madam Speaker, I yield 4 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), the former Attorney General of California.

Mr. DANIEL E. LUNGREN of California. We rarely speak on this floor of evil. Most of the issues we talk about are areas of controversy where you can have men and women of good will with areas of disagreement. And in our society we shun the idea of talking about evil because it sounds judgmental.

This is one example where evil reigns. This is an example of one of the worst kinds of evil in our society today because this affects the most vulnerable among us, and it is a population that is largely hidden from view, in some cases because we avert our eyes. In other cases because we just don't spend the time to know.

The problem of domestic sex trafficking of minors is one that plagues virtually every community in America. That's the surprise for many people. They say, Not here, somewhere else. New York City. The big cities. But it's a problem that knows no jurisdictional boundaries, as traffickers and pimps seem to cross national and international borders with impunity. It is a problem which exploits the young and vulnerable and robs them of their innocence, and it is a problem that we can do something about.

Believe it or not, many of my constituents, many in the general Sacramento region, would be surprised to know that we hold the unfortunate distinction of having one of the highest incidences of domestic minor sex trafficking in the Nation, at least according to the FBI when they did their stings just a year or so ago. One of the reasons could be that we're at the intersection of major thoroughfares that go north and south and come east and west. That might be a comforting thought to others to think it's coming from somewhere else, but we find that most of the people come from our own region and most of them are victims.

We have a courageous police chief just outside my district in the community of Truckee, right near Lake Tahoe, Police Chief Nick Sensley. He's one of the experts in the world on this. And one of the things he always stresses in the programs he's established is this: these young women, these girls are victims. They get caught up in arrests for prostitution and the system looks at them as criminals. Yet you look at almost every single one of them and they are victims. And we don't do much about it.

Oftentimes, when these young girls are able to escape from their imprisonment because law enforcement intervenes, they're let out on the streets shortly thereafter with nowhere to go. And what happens? The pimps start coming around again. And guess what? They're the only one that gives them some perverted idea of love, affection, and commitment. This evil allows the perversion such that these young girls have no other place to look.

We have got to do something about this. We're beginning to do something in California and in Sacramento. We're beginning to do it in other areas of the country. We have to do it as a Nation even more than we have done it before because, as I say, these pimps don't recognize boundaries. They certainly don't recognize laws. They recognize one thing and that is the vulnerability of these young girls.

We have got to do something; and in this Christmas season, we can do nothing better than to give this great gift of a start towards helping communities understand the nature of the problem, begin to allow us to refuse to avert our eyes to what's happening in our own areas, and allow us to support this legislation which will help move us in the right direction.

Mr. SCOTT of Virginia. Madam Speaker, I yield 3 minutes to the young lady who has worked hard on this legislation, along with many others, the gentlewoman from California (Ms. SPEIER).

Ms. SPEIER. Thank you, Mr. Chairman, for calling me young and for your able leadership on this issue.

A special recognition must be offered to Congresswoman MALONEY for her effort in bringing this to our attention. And I'm very proud to be associated with my colleagues on both sides of the aisle who have come together in a true bipartisan effort here, because I think we recognize that this is a travesty.

To speak about 300,000 youngsters in this country, girls and boys—mostly girls, but girls and boys—who are caught up in sex slavery is an abomination. And while this is a great first step—and I applaud it and embrace it and support it—it is a mere $45 million and six projects throughout the country. And we've all admitted that we're talking about hundreds of thousands of young people impacted.

So I hope as part of this effort today we are going to redouble our efforts and expand this program. Because I, like so many of you, have spoken to local DAs, have spoken to local U.S. Attorneys, have spoken to the FBI, have gone on ride-alongs in Oakland, and have witnessed firsthand what is going on. I've gone to Courtney's House. I've gone to many of the shelters and I've talked to the victims.

And I want to share just one story about one victim here in Washington, D.C., age of 16, who got caught up in this sex trafficking because she wanted to leave home and saw this as a way to make a new life because this young man took her to McDonald's and bought her lunch and then wanted to be her boyfriend. And then they needed money so, of course, she needed to sell herself. And I asked her, How many times a day were you forced to have sex? And she said between 10 and 15 times a day before she finally was able to run away.

This is horrific. And it's time for us to do much more than fund six projects across this country for $45 million. A good step—and I embrace it. But, Members, we have to do much more.

□ 1730

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

Mr. SCOTT of Virginia. Madam Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Let me thank the gentleman on the Crime Subcommittee. I think it is appropriate at this time to thank him for his leadership as chairman, as I have had the privilege of serving with him. I think we have had and accepted some of the most provocative and innovative bills that really changed the lives of human beings, and I thank him very much for his service.

Let me applaud as well Congresswoman MALONEY, Congressman SMITH, and my colleague from Texas.

Madam Speaker, slavery is alive, and I rise to support the underlying bill dealing with domestic trafficking and to thank the Senate for getting this over in the hours within which we have to function to make sure that we move this legislation forward.

Houston is particularly an epicenter, if you will, for this kind of activity. Being not so far away from the border, we have seen the increase of human trafficking and smuggling grow exponentially, and certainly, we all are familiar with the tragedy that happened in Victoria just a few years ago where we saw the loss of human lives that were being trafficked. So we know there is a constant, steady flow of individuals who are coming, but this is the most dastardly and heinous aspect of it. I am glad my colleagues have already indicated that this is a domestic problem, that even though we can go to Bangladesh and we can go to parts of Africa and other parts of South Asia, we find human trafficking right here in our backyard.

I remember our former colleague Hilda Solis, now the Secretary of Labor, mentioning the loss of lives of women on the Mexican-U.S. border who would just simply disappear. Some of them were prostitutes; some of them young girls; and to this day, lives and/or those girls are still missing. So the stories go on and on and on. Frankly, I think there could be no better initiative to come in these last hours than this legislation.

I want to pay tribute to some of the individuals who are on the ground, if you will, who we don't hear of quite frequently.

The sheriff in Harris County, Adrian Garcia, recognizes the devastation of human trafficking, has set up a task force, which we are working with, and has attempted to make sure that he has the funding to stop the tide of those who call themselves ''pimps'' but who project themselves as boyfriends and friends and counselors and nurturers, who take these young girls in—some girls that you never ever find again.

I want to pay tribute as well to the Children at Risk, another Houston-based organization that acknowledged and wrote a report on human trafficking that occurs in our locale. It is important to know that these various organizations really had to be self-starters because, as they began to talk about human trafficking, no one else was, and you were in a city by yourself.

Why are you talking about human trafficking? Isn't that global or international or something far away from here?

I want to pay tribute to Kathryn Griffin, who has an organization that might have a provocative name—We've Been There Done That. She is dealing with not only this broad question of human trafficking but of prostitutes who come in all ages who are attempting to rehabilitate themselves. She has established a home, and she is trying to counter the ridiculousness of 100 beds existing for these young girls who find themselves in these conditions.

So, Madam Speaker, I started out by saying that slavery does exist. I, frankly, believe that one of the aspects of this bill is to be able to go after the service builders, if you will—the pimps, the users—and to be able to ensure that there is a place for someone to go.

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

Mr. SCOTT of Virginia. Madam Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Virginia has 1½ minutes remaining.

Mr. SCOTT of Virginia. I yield 1 minute to the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. This is to proclaim that we will not suffer this and tolerate this.

As my colleague from Texas indicated, we may want to be tier 1 in education, but we are not trying to be tier 1 in modern slavery, human suffering, and human smuggling. Therefore, enough is enough.

I look forward to this bill being signed by the President. I look forward to our bringing relief and acknowledging that slavery is here but that we are ready to stamp it out to save the lives of these young girls.

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

I do want to thank the gentlelady from New York (Mrs. MALONEY) and the gentleman from New Jersey (Mr. SMITH), who are both sitting here together to show their support for this bipartisan legislation.

I believe that important, good legislation passes this House when it is bipartisan, and nothing could be more important than trying to protect the greatest resource we have in our community, which is those young children who live among us. This legislation is important for a whole lot of reasons.

It is ironic, Madam Speaker, that in international sex trafficking, if we have that situation in the United States where, say, a young girl is trafficked into the United States from Honduras, and she is rescued by law enforcement, she is treated like a victim of crime because she is an international individual. If the same situation occurs where an American citizen, a young girl, is trafficked from Sacramento to Houston and she is rescued in Houston, she is not treated as a victim of crime; she is generally treated as a criminal. That especially is true in places like Texas, where domestic trafficking victims are treated as criminals.

Not to blame law enforcement, but they don't know what to do with these young girls. There is no place to put them. There is no place to take them. So they file charges on them for prostitution, minors committing prostitution, so they can protect them by locking them up. That is why many times they file charges. However, though, they are not criminals. They are victims of criminal conduct. Once she has that label of prostitute, even though she is a minor, we all know because of public records nowadays that that sticks with that young girl forever no matter how it turns out in that criminal case.

So we have to change the mindset in this country to make sure that we understand when a victim—a young girl—is put in that situation because of her environment or whatever and is forced into modern day slavery, that we treat her as a victim of crime, and when she is rescued by law enforcement, that she is rescued and not put into the criminal justice system. This bill moves us in that direction, and it is important that we continue to understand that.

This is a hard situation. For the young girls who find themselves in that position—who go into prostitution because of being forced to do so—once they are rescued, they are difficult to deal with. They have a hard time coming back into a normal society because they are beat down emotionally and they are beat down physically. So it is difficult to deal with them, and it is not easy to bring them back. But just because it is hard, it is no reason we shouldn't be involved in helping the youth of our community and in making sure that we rescue them one at a

time. It is no reason we shouldn't take whatever funds are necessary to make sure that we treat them with the dignity that they deserve.

Then, on the other end, when we capture that trafficker, that individual who makes money—that filthy lucre—from transporting a child from one part of the United States to another, we treat him as he deserves, and he gets justice at the courthouse.

Then the customers who buy those children for sexual favors, we treat those people with justice. They get justice whether they want it or not, and we hold them accountable for the ways they have treated the youth of this Nation.

□ 1740

So we have a long way to go; but this is a start, recognizing that those young girls, mainly young girls, are victims of crime.

I want to thank the sponsors of this legislation. I, too, want to compliment those in the Houston area and the Rescue Alliance, the Children At Risk, a nongovernment agency that's doing everything they can to rescue those children; Sheriff Adrian Garcia, Constable Ron Hickman, all working together to stop this epidemic that is consistently growing in this country.

And I can agree that there's no more important legislation that we could pass than legislation this time of year to take care of our greatest natural resource: young children.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I want to thank the gentleman from Texas for his statement; again, thank the gentleman from New Jersey and the gentlelady from New York for their hard work on this bill. Many children in the future will benefit from the work of these two individuals and the House of Representatives and U.S. Senate.

With that, Madam Speaker, I urge my colleagues to support the bill.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise today in strong support of S. 2925, the "Domestic Minor Sex Trafficking and Deterrence and Victims Support Act of 2010." This bill calls for funds awarded under the Edward Byrne Memorial Justice Assistance Grant Program to be used to provide education, training, deterrence, and prevention programs relating to sex trafficking of minors. It also calls for states to treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents. States should adopt and amend laws that protect minors who are victims of sex trafficking, and make such minors eligible for compensation. Furthermore, S. 2925 calls for consistent law enforcement to be used to deter demands for commercial sex with sex trafficking victims.

The issues associated with the exploitation of children here in the U.S., and all over, are ones that I am very passionate about. The fact that children are recruited, harbored, transported, provided, or obtained for the purpose of a commercial sex act is appalling and I believe we should thrust our efforts behind meaningful policies and laws, such as the Domestic Minor Sex Trafficking Deterrence and Victims Support Act, that will put an end to such acts.

During the Congressional Black Caucus' Annual Legislative Conference, which took place this past September at the Washington Convention Center, I held an issue forum to bring attention to issues plaguing our Nation's children—missing children who are exploited in the commercial sex trade. In this forum, we brought together a number of professionals and experts to bring light to this issue and, more importantly, determine best practices for deterring such behavior in order to put an end to these horrid practices. Many of the methods and practices highlighted in that forum are present in S. 2925; yet another reason why I so fervently support this bill.

Hearing the statistics about the exploitation of children will make you cringe, as they are especially disturbing. Nationally, 450,000 children run away from home each year. One out of every three teens on the street will be lured toward prostitution within 48 hours of leaving home. Statistically, this means at least 150,000 children are lured into prostitution each year. The National Center for Missing and Exploited Children (NCMEC) data shows 100,000 to 293,000 children have become sexual commodities. Twelve is the average age of entry into pornography and prostitution in the U.S. This is a universal problem—these children can come from any race, ethnic group, or religious background, and all socioeconomic classes.

The common denominator amongst these children is their vulnerability. Many of these children have been emotionally bruised as a result of abuse—sexual assault and/or familial molestation. Many children vulnerable to domestic minor sex trafficking are homeless, runaways, throwaways, and youth who have ended up in the foster care system and child protective services.

Of the 2.8 million children living on the streets, which alone is an appalling statistic, over a third of them are lured into prostitution as a way to support themselves financially. Others are recruited through forced abduction or deceptive agreements between parents and traffickers. These children are often shipped off to different locations and isolated from family and peers, left to rely on a system of pimp-controlled sexual exploitation—escort and massage services, private dancing, pornographic clubs, just to name a few.

The fact that we live in a virtual world now has had a major impact on how domestic minor commercial sex trafficking takes place. The Internet has completely changed the dynamics of prostitution and trafficking, making it easier for prostitutes and traffickers to connect with clients without too many layers of intermediaries. As a result, the Internet has become an intermediary, often without the knowledge of those Internet service providers (ISPs) who are the conduits. Increasingly, certain Web sites and online marketplaces have been bearing the brunt of much criticism for providing a medium for online minor sex trafficking.

The Domestic Minor Sex Trafficking Deterrence and Victims Support Act allows us to take the necessary actions to combat this new tech-savvy generation of prostitution and minor sex trafficking. As a senior member of the House Judiciary Committee, I have had the opportunity to examine how children are trafficked in the U.S., including the role that the Internet plays, and the challenges that these cases pose to law enforcement. It is my hope that the passage of S. 2925 will make way for implementation of prevention methods that will help law enforcement place an effective road block on this horrendous practice.

Furthermore, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act addresses the unique needs of those who have been victimized by sex trafficking. As mentioned before, many of the children who end up as victims of this practice enter into the world of minor sex trafficking with scars, and leave with even more. They come from broken homes, are victims of abuse, assault, and may suffer from emotional problems. Passage of S. 2925 will provide support for victims of minor sex trafficking and help to rehabilitate survivors so that they may re-enter society successfully.

Again, I would like to reirecate, my strong support for S. 2925, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act, for it is an important first step in addressing a problem that plagues our nation and the world.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, S. 2925, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONTINUING APPROPRIATIONS AND SURFACE TRANSPORTATION EXTENSIONS ACT, 2011

Mr. POLIS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1782 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1782

Resolved, That upon adoption of this resolution, it shall be in order to take from the Speaker's table 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, with the Senate amendment to the House amendment to the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Appropriations or his designee that the House concur in the Senate amendment to the House amendment to the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

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

Mr. POLIS. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman

from Texas (Mr. SESSIONS), my colleague on the Rules Committee. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1782.

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

There was no objection.

Mr. POLIS. I yield myself such time as I might consume.

Madam Speaker, House Resolution 1782 provides for consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The rule makes in order a motion offered by the chair of the Committee on Appropriations, or his designee, for the House to concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The rule provides 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

The rule waives all points of order against consideration of the motion, except those arising under clause 10 of rule XXI.

The rule provides that the Senate amendment shall be considered as read.

Madam Speaker, I rise today in support of approving a continuing resolution to maintain a level and consistent funding stream for our government. It's one of our primary constitutional responsibilities as Members of Congress to keep the Federal Government running through the passage of appropriations legislation. All money spent by the Federal Government needs to be approved by this body, Madam Speaker, right here in this Congress.

This continuing resolution will ensure that all necessary and vital functions of government will continue uninterrupted until March 4, 2011, instead of grinding to a halt at midnight tonight. If we do not act now, the Federal Government will shut down tonight at midnight, something that I hope no one in our body desires.

The CR will fund the Federal Government at levels already approved by the House in the FY 2010 appropriations bills, aside from a small number of programs that both parties in the Senate have agreed on that would otherwise expire or be severely disrupted. It is a very straightforward measure, Madam Speaker, to keep the government running and get us through the next few months and into the next Congress. These are funding levels that we have voted on multiple times. This language is the result of bipartisan negotiations in the Senate, and it's my hope that my colleagues on the other side of the aisle will work with us now to move this important measure forward to passage and avoid a government shutdown.

We have 4 days until the Christmas holiday, and we are just weeks away from the end of the year. I can't think of anything that we would do to undermine the work that this Congress has done these last 2 years through a shutdown of the Federal Government. The uncertainty that a failure to pass this rule would lead to is the last thing our Nation's retailers or economy need, let alone the millions of Americans who depend on critical services of our Federal Government.

Let me give an example, Madam Speaker. The next few days are amongst the busiest travel times of the year. Is it wise to cut off at midnight tonight funding for our Federal air marshals? This CR would allow the Federal air marshals to maintain the existing 2010 fourth-quarter coverage levels for international and domestic flights. This funding allows for continued air marshal training, including investigative techniques, criminal terrorist behavior recognition, firearms proficiency. This funding allows the Federal air marshals to fulfill their mission of protecting air passengers and crews.

This funding is critical especially during this peak holiday travel time. What a Christmas gift it would be, Madam Speaker, to all of the families across our country traveling to visit their loved ones if the airports are closed, their flights indefinitely delayed, Grandma's visit over Christmas is canceled because Congress chose to be a grinch. Madam Speaker, it's for families across our country that we must ensure that our airports and travel remain open through this busy holiday season to allow people to visit loved ones across this country.

This CR would also allow the commissioner of U.S. Customs and Border Protection to maintain the levels of Customs and Border Protection personnel in place in the final quarter of 2010. This would provide proper funding to keep terrorists and their weapons out of the U.S., secure and facilitate trade and travel, and enforce hundreds of U.S. trade regulations, including immigration and drug laws. U.S. Customs and Border Protection law enforcement serve as America's front line on our Nation's borders and ports of entry. It's important we maintain a consistent level of personnel at our Nation's borders.

If we fail to pass this CR, Madam Speaker, it would be a Christmas gift—it would be a Christmas gift to terrorists and criminal cartels, because were we to let down our watch on our borders during this holiday season by interrupting these funds, we would be jeopardizing the U.S. Customs and Border Patrol's ability to do their job and protect America. This funding will enable these officers to inspect our borders, process trade, combat terrorism, and combat smuggling.

In addition to extending the existing authority for the Department of Homeland Security to regulate chemical facilities that are high levels of risk for terrorist attacks, this CR also maintains the additional $23 million in funding for the Department of the Interior's new Bureau of Ocean Energy Management. Madam Speaker, this is the program that monitors offshore oil rigs. In light of the disaster we all witnessed unfold this summer in the Gulf of Mexico, can we all imagine what would happen if we let down our watch now?

These funds are critical to ensure that tragedies like the Deepwater Horizon spill are not repeated. These funds allow existing rigs to continue operating in a manner that's safe to workers on the rigs and the environment. Interrupting these funds would be putting offshore oil rig workers' lives in danger, the environment in danger, and our economy in danger with potentially devastating impact in Florida and Texas and the other gulf States.

This continuing resolution also provides continued funding for important allies such as Israel, Egypt, and Jordan at fiscal year 2009 supplemental levels. By providing assistance and aid to our allies in the Middle East, we strengthen our position and make a vital investment in national security.

It also continues the rate of operations for the Pakistan Counterinsurgency Capability Fund at $700 million. This section also continues the terms and conditions included in the 2009 and 2010 supplemental which helped build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions.

□ 1750

Madam Speaker, this Christmas season is not a time to let down our global watch on the war on terror. We must redouble our efforts, particularly with regard to assisting Pakistan with regard to their counterinsurgency efforts to root out al Qaeda operatives within their borders.

This CR would also support vital programs that are important to the American people. These programs include Federal funding to levels 2007 before the crisis for our national domestic priorities. These funding levels would provide low-income home energy assistance, Pell Grant assistance, and assisting the processing of veterans' benefits and supporting over $4.3 billion in reduced fee loans for small businesses.

It is critical that we make sure that families across America are able to enjoy their holidays free of airport closures and free of flight cancellations. So, too, must this body ensure that we don't give a Christmas gift to the wrong people—the drug cartels and criminal terrorists that threaten our Nation's security.

I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it is my understanding from prior conversations with the gentleman from Colorado (Mr.

POLIS) that it would be his idea we would take the minimum amount of time, and I appreciate him yielding the customary 30 minutes to me and trying to work through the loads so we are able to get home.

I would like to inquire of the gentleman if he has any further speakers that he would anticipate at this time on his side.

Mr. POLIS. I have one speaker.

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

Mr. POLIS. I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Madam Speaker, I thank the gentleman for his leadership, and I want to take this opportunity to express on the floor of the House my appreciation to Chairman OBEY for his years of service. We have had opportunities to thank him personally, but I wanted the RECORD to reflect that this may be his last CR, and I don't want to misspeak because I know that he finds ways to do good so we may see him again, but I do want to express my appreciation. And I also want to recognize his partner, the ranking member, Mr. LEWIS, as well.

I want to acknowledge that this is something we have to do to keep the government open, so I wanted to express my appreciation and my concern. First of all, let me go to the Transportation Security Administration. I am the subcommittee chair on the Transportation Security and Infrastructure Protection Subcommittee. It is interesting as we near the holiday, Christmas coming on Saturday, we are reminded certainly of the Christmas Day bomber of 2009. So as millions of Americans are now traveling and will continue to travel through this holiday season to gather with friends and family, domestically and internationally, we recognize the importance of providing transfer authority for TSA to allow for efforts against terrorist attacks such as what occurred in the Northwest Flight 253 and the recent attempts against all cargo.

In addition, we recognize the importance of increased staff. This is the holiday time. There will be overtime, and we want to make sure that all of the levels of intensity, of ramping up are provided for, and I am very grateful that this CR chose to do that.

Additionally, many of us have heard from our small businesses, and this will prevent the elimination of funding of reduced loans for small businesses.

I want to raise something very quickly. I am a supporter of providing qualified teachers for our inner city schools, and even had a daughter work for a group called Teach for America. These are outstanding and well-informed individuals. I raise a question, because my district is dominated by inner city schools, of the change of definition of ''highly qualified teacher'' that would include those in the Teach for America, that a recent graduate, does that in fact eliminate our experienced teachers, that is, take away from the training of those experienced teachers? I would raise that concern.

Finally, I close by simply saying I view this as an important step, but I am disappointed we had to go this route and we could not look to a rational response to the work that so many of us have done. Some may call them earmarks. I call them designations of funding in cooperation, collaboration with our executive.

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

Mr. POLIS. I yield an additional 30 seconds.

Ms. JACKSON LEE of Texas. It is a tragedy that, for example, a group that houses victims of human trafficking will not be able to be responded to, or a group that deals with those who are trying to rebuild their lives as ex-offenders will not get funding and that infrastructure projects will not get funding. Let me remind my colleagues, you don't save money; you just hand it over to the executive and it finds its way in some other direction.

I am delighted we stand here today, continue to have the government work, and I appreciate the great work that was done for the CR.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise in support of making further continuing appropriations for fiscal year 2011. This measure will continue to assure funding for all Federal Government agencies and allow the Government to continue its day to day operations through March 4, 2011, provided under Public Law 111–242, the first fiscal year 2011 Continuing Resolution (CR).

This Continuing Resolution will basically fund the Government at levels previously approved by the House for fiscal year 2010. It is of great importance that this Congress continues to decide how best to finalize fiscal year 2011 spending and explore ways to equitably decrease the national deficit.

As a Member of Congress, it is a critical constitutional responsibility to assure continued funding streams for the Federal Government. This Continuing Resolution will ensure that all necessary and key functions of Government will continue unimpeded until Congress finalizes our work with the passage of final appropriations legislation. There have been a few exceptions, but at least one Continuing Resolution has been enacted for each fiscal year since 1955.

As we rapidly approach the holiday season, and the end of the year is only 10 days away, there is no greater business before this chamber than keeping our Federal Government up and running. Especially during this crucial time of transition, the citizens of the United States are depending upon us to keep the Federal Government fully operational. We must provide a sense of certainty and stability as our country continues to recover from recession and remains engaged in two wars abroad.

I must say that I am very disturbed that we cannot get our colleagues to cooperate in a bipartisan manner to pass essential appropriations bills and must instead resort to short-term continuing resolutions. However, with the funding for all Federal agencies and programs set to expire at midnight tonight, it is imperative that we pass this Continuing Resolution. It is crucial that we continue to fund Government agencies and programs without interruption. We must keep this Nation moving forward toward progress.

In recent days and months, unnecessary partisan battles in both chambers have been waged over expenditures included in appropriations measures. Partisan finger-pointing and squabbling have hindered the passage of appropriations bills and had a negative impact on our economic recovery. This Continuing Resolution has suffered the same fate. I would like to remind all of my colleagues that appropriations are built-in by law to permit Members of Congress to identify and provide funding for useful and necessary projects in their districts. Specifically, in my home district of Houston, I fought hard to include in the Continuing Resolution, a total of $175,595,558 in appropriations funding for fiscal year 2011.

These projects create jobs, rebuild our infrastructure and benefit our districts, our States and our country, as well. Though I recommended funding for critical transportation and infrastructure projects in Houston, Texas, unfortunately this funding was excluded from the Continuing Resolution. Though an opportunity to improve our national economy was lost, I will continue to fight for the funding of such useful, necessary and economically productive projects in Houston and support the funding of these types of projects nationwide.

Overall, the Continuing Resolution will generally benefit the citizens of Houston and the entire country by continuing to fund important government programs without interruption. As we move forward, it is my hope that both chambers in the House and Senate will take a bipartisan approach to moving vitally important appropriations legislation which includes useful, necessary, job creating and economy-building projects from our districts. This is the fiscally responsible course and grows and strengthens our economy in the long run.

In summation, I urge my colleagues to vote in favor of this Continuing Resolution as we continue the work of the Federal Government.

Mr. SESSIONS. I yield myself the balance of my time.

Madam Speaker, today is a historic day, also, as two of the stalwarts of this House of Representatives perhaps are here tonight to argue as chairman and ranking member of the Appropriations Committee on behalf of not only themselves, their committee, but also the teams they represent. The gentleman from Wisconsin (Mr. OBEY) perhaps will be on the floor tomorrow, I don't know, but tonight I will be here, and I would like to recognize the service that Mr. OBEY has given the United States Congress. I have been with Mr. OBEY over a number of times in the last 14 years up in the Rules Committee. I have seen him very early in the morning and very late in the day. Mr. OBEY has presented himself not only in a professional manner, but represented his party and its thoughts very well. It would be my hope I would be able to offer a warm hand and extension to him to say: Job well done, sir.

Also, on my side, the gentleman from California (Mr. LEWIS) will be on the floor in just a few moments as they present this final spending package, the CR. Mr. LEWIS has been a very dear

friend of mine over the years. He has been very gracious about hearing the activities I believe are important, including those of the gentlewoman from Wisconsin who sits in the chair tonight as the Speaker pro tempore, for issues related to sight, retinal issues, and the ability we have to create a better life for those who have lost their sight. Mr. LEWIS has been very responsive to not only this Member but also to others in this body in dealing with health issues, understanding that research and development is a key part of technology in medical breakthroughs for people who count on us making wise choices with how we spend people's money.

So I would want to extend to both of these gentlemen thanks for a job well done, knowing that tonight they will be ready to go home for Christmas and the holidays.

Madam Speaker, the Republican Party finds itself in the position where we are here on the floor just a few days before Christmas. The gentleman from Colorado (Mr. POLIS) has outlined the exact need of not only this administration but, I believe, forthrightly, the American people and certainly this Congress, the ability to make sure that we act responsibly, that we provide the funding that is necessary. The President of the United States has asked for this. The President of the United States has a constitutional authority to move forward, and I believe that that is a rational argument.

The Republican Party finds itself in a circumstance where we have attempted, for quite some time, to bring to the attention of the majority what we believe is an overriding need to cut the amount of spending that is taking place by the United States Congress. I believe it has created excessive not only spending, a bloated government, and an inadequate ability by the free enterprise system to get out of the way of government; that a government that is empowered to roll over the free enterprise system and individuals who are in the marketplace perhaps, also. In the scheme of things, the Republican Party is worried about the future of this country and what our children and our grandchildren will have to pay with a monster debt that looms over us.

I recognize, I think the entire country recognizes, that this debt, the doubling and tripling of debt that is underway, came as a result of a political opportunity with the Democratic Party by the President, the House, and the Senate to collectively determine that they were going to go and increase spending in a dramatic basis.

□ 1800

The Republican Party, through myself as the Rules Committee person, recognizes that we, once again, are here on the floor of the House of Representatives at the late hour, even though I believe what is inevitable is here with this continuing resolution to say, We believe there should have been a better effort on behalf of this majority to substantially review not only the excessive spending but to put into place those stopgap measures which would prove to the American people that Washington, D.C., does get it.

What we need to get is this: as we loom and roll forward in the future, another debt limit opportunity vote that means that we will have to take the tough votes here on this floor and raise that debt limit so that we are as responsible as we are tonight, what has been described by Mr. POLIS, about making sure the government funds itself.

The Republican Party believes we should have immediately last year when we recognized not only continued unemployment, massive debt, have done something about stopping the spending. We spend about $4.5 billion too much every day, more than what comes in. And that $4.5 billion is important. When you add it all up, it amounts to about 40 percent of all of the spending going to debt.

So we don't have to yell and scream. We have to succinctly come to the floor. We have to protect the turf that we believe is best for the American people, and that is, I will tell you, on January 5 when we elect a new Speaker and the Republican Party becomes the majority, we pledge ourselves to having not only the ideas about how to turn this country around, but I believe we will have the guts to make tough votes. And we will ask the American people to listen and look at every single vote we make.

Today, we are kicking the can down the road. Today, I guess we are ready to go home. The Republican Party is here to say, We disagree. We think every dollar and every penny that is being spent to the detriment of the future of this country is a problem. So that's what we are doing here today.

I appreciate the gentlewoman not only for her efforts of tireless sitting in the chair today, but I also recognize our leaders, the gentleman from Wisconsin (Mr. OBEY), the gentleman from California (Mr. LEWIS). I thank the gentleman from Colorado (Mr. POLIS) and wish him the very best of holiday seasons.

Madam Speaker, just this morning, I stood right here to do a rule and pointed out that my democrat colleagues continue to use an unprecedented, restrictive, and closed process on the House floor, and here I am again to tell the same story. In fact, this is the third Continuing Resolution rule I have done this month.

Week after week my friends on the other side of the aisle continue to bull-dose their massive spending agenda through the floor of the House with no Republican input, and no regular order.

What was promised to be the most "open, honest and ethical" Congress by Speaker PELOSI when she took the gavel, has been the most closed, and one-sided Congress in history. The American people asked for changes in 2008 and they got something far worse. They received a Democrat Congress that doesn't listen to the American people, and a Congress that acts on their own interest and not the interest of the American taxpayer.

Madam Speaker, in two weeks that will change. But until then, I am here to discuss another closed rule for another Continuing Resolution. The legislation before us continues to overspend—a common theme over the last two Congresses.

The underlying legislation is a CR to keep the government running for 2 months. The Democrats provided no budget for this year and the President has not signed one appropriations bill into law—so this legislation and rule is just another tactic to keep the government running until the Majority can kick the responsibility to the Republicans next Congress.

Over the past three years, non-defense, non-homeland security, and non-veterans affairs discretionary spending has increased by a staggering 88 percent. In the meantime, the Nation's debt has risen to $13.5 trillion, there have been yearly record deficits since the Democrats took the Majority, and the unemployment rate has been at or above 9.5 percent for 18 consecutive months.

This CR does almost nothing to reverse this trend and instead continues the unsustainable, high rate of spending passed the Democrat Majority this year. This includes more spending for many federal agencies that received massive increases with the Democrat Stimulus bill in 2009. My Republican colleagues and I have pledged to cut non-security spending back the fiscal year 2008 levels which would save American taxpayers nearly $100 billion in the first year.

The American people are fed-up with the tax, borrow and spend policies of the past 4 years, which has brought nothing but unemployment, debt and deficit. Americans have called for an end to reckless spending and a new era of fiscal discipline, yet it continues to fall on deaf ears here today. This country needs leaders that are willing to make the tough fiscal decisions that will provide economic stability and job growth, not just more of the same.

In true fashion, my democrat colleagues continue to push their own agenda on the American people. They have shut out Republicans over the past 4 years, and they continue to shut out the American people. Continuing on the path of reckless government spending, will only put the U.S. further in debt burdening future generations. Congress must do better for the American people. I oppose this rule.

Madam Speaker, you have heard me say it over and over, but the American people we promised an "open, honest and ethical" Congress, and that is not what they have received. Congress only received the text of this legislation a few hours ago. American's have called for transparency and bipartisanship and have only seen a secretive dictatorship.

I ask my colleagues to vote "no" on the rule. Vote no to stop the reckless fiscal policies that Speaker PELOSI and the Democrats have pursued over the last 4 years. It is time to end the idea of big government and big spending.

I yield back the balance of my time.

Mr. POLIS. Madam Speaker, I want to further describe something that the gentlelady from Texas mentioned in her remarks, that this continuing resolution would expand the Federal definition of "highly qualified teacher" to

include a wider range of teachers, including those who are alternatively certified. This is particularly important for programs where the data shows they are effective, like Teach For America that help improve student outcomes, particularly among our most at-risk students. This definition would support greater local district control and flexibility to help ensure that good teachers are in public school classrooms.

This was, from a policy perspective, largely agreed upon by Democrats and Republicans in policy circles around the definition of highly qualified. But a court recently said that previous language was unable to be interpreted in this way. So, Madam Speaker, we are using this continuing resolution to ensure that these good teachers can stay in the classrooms and that programs like Teach For America can confidently move forward instead of losing their ability to teach midway through the school year.

Madam Speaker, tonight we are on the brink of a government shutdown if we fail to pass this CR, and we shouldn't let our partisan bickering between 99 cents or $1 or $1.01 grind the entire economy of this Nation to a halt, allowing drug cartels carte blanche on the border, and making sure that grandma can't visit the kids in Topeka.

The House has done its part to keep the government funded. We passed a full year-long continuing resolution 2 weeks ago. We acted quickly to maintain government operations, and the Senate failed to overcome obstructionism. Today our situation is that we have what some on both sides, I am sure, would agree is an imperfect continuing resolution that will fund the Federal Government in the new year, which is clearly preferable to a government shutdown in the holiday season.

Madam Speaker, I urge my colleagues to join me in support of this rule. I thank Chairman OBEY for his leadership not only on this bill and on this continuing resolution but for his hard work and his staff's hard work.

Madam Speaker, the House did pass two appropriation bills this year, the Transportation-HUD appropriation and Military Construction/Veterans Affairs appropriation, and the Senate hasn't passed a single one. So rather than continuing on with futile work, I think it is important that we get about our business of funding government to ensure that we can move forward with the spirit of Chairman OBEY guiding us in the 112th Congress to continue our work in the appropriations process. I praise Chairman OBEY and the staff for their hard work on this bill.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. OBEY. Madam Speaker, pursuant to House Resolution 1782, I call up 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, with the Senate amendment to the House amendment to the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment to the House amendment to the Senate amendment.

The text of the Senate amendment to the House amendment to the Senate amendment is as follows:

Senate amendment to House amendment to Senate amendment:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—CONTINUING APPROPRIATIONS AMENDMENTS

SECTION 1. (a) The Continuing Appropriations Act, 2011 (Public Law 111–242) is further amended by—

(1) striking the date specified in section 106(3) and inserting ''March 4, 2011''; and

(2) adding the following:

''SEC. 147. (a) For the purposes of this section—

''(1) the term 'employee'—

''(A) means an employee as defined in section 2105 of title 5, United States Code; and

''(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

''(2) the term 'senior executive' means—

''(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

''(B) a member of the FBI–DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

''(C) a member of the Senior Foreign Service under chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following); and

''(D) a member of any similar senior executive service in an Executive agency;

''(3) the term 'senior-level employee' means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

''(4) the term 'Executive agency' has the meaning given such term by section 105 of title 5, United States Code.

''(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

''(2) For purposes of this subsection, the term 'statutory pay adjustment' means—

''(A) an adjustment required under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code; and

''(B) any similar adjustment, required by statute, with respect to employees in an Executive agency.

''(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

''(d) The President may issue guidance that Executive agencies shall apply in the implementation of this section.

''(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.

''SEC. 148. Notwithstanding section 101, the level for 'Department of Commerce, National Telecommunications and Information Administration, Salaries and Expenses' shall be $40,649,000.

''SEC. 149. The following authorities shall continue in effect through the earlier of the date specified in section 106(3) of this Act or the date of enactment of the National Defense Authorization Act for Fiscal Year 2011:

''(1) Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042), as amended by section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2441);

''(2) Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 371 note), as amended by section 1012 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2441);

''(3) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85), as amended by section 1014 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2442);

''(4) Sections 611, 612, 613, 614, 615, 616, 1106, 1222(e), 1224 and 1234 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84);

''(5) Section 631 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181); and

''(6) Section 931 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364).

''SEC. 150. Subject to the availability of appropriations, the Secretary of the Navy may award a contract or contracts for up to 20 Littoral Combat Ships (LCS).

''SEC. 151. Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

''(1) in clause (i), by striking 'October 1, 2010' and inserting 'December 31, 2011'; and

''(2) in clause (ii)—

''(A) by striking 'February 1, 2011' and inserting 'February 1, 2012'; and

''(B) by striking 'October 1, 2010' and inserting 'December 31, 2011'.

''SEC. 152. Notwithstanding section 101, the level for 'Special Inspector General for the Troubled Asset Relief Program, Salaries and Expenses' shall be $36,300,000.

''SEC. 153. Public Law 111–240 is amended in section 1114 and section 1704 by striking 'December 31, 2010' and inserting 'March 4, 2011' each time it appears and in section 1704 by adding at the end the following:

'' '(c) For purposes of the loans made under this section, the maximum guaranteed amount outstanding to the borrower may not exceed $4,500,000.'

''SEC. 154. The appropriation to the Securities and Exchange Commission pursuant to this Act shall be deemed a regular appropriation for purposes of section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee).

''SEC. 155. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking 'December 31, 2010' each place it appears and inserting 'December 31, 2011'.

''SEC. 156. Notwithstanding section 503 of Public Law 111–83, amounts made available in this Act for the Transportation Security Administration shall be available for transfer between and within Transportation Security Administration appropriations to the extent necessary to

avoid furloughs or reduction in force, or to provide funding necessary for programs and activities required by law: Provided, That such transfers may not result in the termination of programs, projects or activities: Provided further, That the House and Senate Appropriations Committees shall be notified within 15 days of such transfers.

''SEC. 157. Up to $21,880,000 from 'Coast Guard, Acquisition, Construction, and Improvements' and 'Coast Guard, Alteration of Bridges' may be transferred to 'Coast Guard, Operating Expenses': Provided, That the Coast Guard may decommission one Medium Endurance Cutter, two High Endurance Cutters, four HU–25 aircraft, the Maritime Intelligence Fusion Center, and one Maritime Safety and Security Team, and make staffing changes at the Coast Guard Investigative Service, as outlined in its budget justification documents for fiscal year 2011 as submitted to the Committees on Appropriations of the Senate and House of Representatives.

''SEC. 158. Notwithstanding section 101, the final proviso under the heading 'Science and Technology, Research, Development, Acquisition, and Operations' in Public Law 111–83 (related to the National Bio- and Agro-defense Facility) shall have no effect with respect to all amounts available under this heading.

''SEC. 159. Notwithstanding sections 101 and 128, amounts are provided for 'Department of the Interior—Minerals Management Service—Royalty and Offshore Minerals Management' in the manner authorized in Public Law 111–88 for fiscal year 2010, except that for fiscal year 2011 the amounts specified in division A of Public Law 111–88 shall be modified by substituting—

''(1) '$200,110,000' for '$175,217,000';

''(2) '$102,231,000' for '$89,374,000';

''(3) '$154,890,000' for '$156,730,000' each place it appears; and

''(4) 'fiscal year 2011' shall be substituted for 'fiscal year 2010' each place it appears.

''SEC. 160. The Secretary of the Interior, in order to implement a reorganization of the Bureau of Ocean Energy Management, Regulation, and Enforcement, may establish accounts, transfer funds among and between the offices and bureaus affected by the reorganization, and take any other administrative actions necessary in conformance with the Appropriations Committee reprogramming procedures described in the joint explanatory statement of the managers accompanying Public Law 111–88 (House of Representatives Report 111–316).

''SEC. 161. Notwithstanding section 101, section 423 of Public Law 111–88 (123 Stat. 2961), concerning the distribution of geothermal energy receipts, shall have no force or effect and the provisions of section 3003(a) of Public Law 111–212 (124 Stat. 2338) shall apply for fiscal year 2011.

''SEC. 162. Notwithstanding section 109, of the funds made available by section 101 for payments under subsections (b) and (d) of section 2602 of the Low Income Home Energy Assistance Act of 1981, the Department of Health and Human Services shall obligate the same amount during the period covered by this continuing resolution as was obligated for such purpose during the comparable period during fiscal year 2010.

''SEC. 163. (a) A 'highly qualified teacher' includes a teacher who meets the requirements in 34 C.F.R. 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

''(b) This provision is effective on the date of enactment of this provision through the end of the 2012–2013 academic year.

''SEC. 164. (a) Notwithstanding section 101, the level for 'Department of Education, Student Financial Assistance' to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be $23,162,000,000.

''(b) The maximum Pell Grant for which a student shall be eligible during award year 2011–2012 shall be $4,860.

''SEC. 165. (a) Notwithstanding section 1018(d) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(d)), the use of any funds appropriated to the United States Capitol Police during fiscal year 2003 for transfer relating to the Truck Interdiction Monitoring Program to the working capital fund established under section 328 of title 49, United States Code, is ratified.

''(b) Nothing in subsection (a) may be construed to waive sections 1341, 1342, 1349, 1350, or 1351 of title 31, United States Code, or subchapter II of chapter 15 of such title (commonly known as the 'Anti-Deficiency Act').

''(c) Notwithstanding section 106 of this Act, the use of the funds described under subsection (a) of this section shall apply without fiscal year limitation.

''SEC. 166. Notwithstanding section 101, amounts are provided for 'Department of Veterans Affairs, Departmental Administration, General Operating Expenses' at a rate for operations of $2,546,276,000, of which not less than $2,148,776,000 shall be for the Veterans Benefits Administration.''.

(b) This section may be cited as the ''Continuing Appropriations Amendments, 2011''.

TITLE II—EXTENSION OF CURRENT SURFACE TRANSPORTATION PROGRAMS

SEC. 2001. SHORT TITLE; RECONCILIATION OF FUNDS.

(a) This title may be cited as the ''Surface Transportation Extension Act of 2010, Part II''.

(b) RECONCILIATION OF FUNDS.—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this title in fiscal year 2011 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2010 for the period beginning on October 1, 2010, and ending on December 31, 2010.

Subtitle A—Federal-Aid Highways

SEC. 2101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 411 of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 78) is amended—

(1) by striking ''the period beginning on October 1, 2010, and ending on December 31, 2010'' each place it appears (except in subsection (c)(2)) and inserting ''the period beginning on October 1, 2010, and ending on March 4, 2011'';

(2) in subsection (a) by striking ''December 31, 2010'' and inserting ''March 4, 2011'';

(3) in subsection (b)(2) by striking ''1/4'' and inserting ''155/365'';

(4) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''1/4'' and inserting ''155/365''; and

(ii) by striking ''the period beginning on October 1, 2010, and ending on December 31, 2010,'' and inserting ''the period beginning on October 1, 2010, and ending on March 4, 2011'';

(B) in paragraph (4)—

(i) in subparagraph (A)(ii) by striking ''1/4'' and inserting ''155/365''; and

(ii) in subparagraph (B)(ii)(II) by striking ''$159,750,000'' and inserting ''$271,356,164''; and

(C) in paragraph (5) by striking ''1/4'' and inserting ''155/365'';

(5) in subsection (d)—

(A) by striking ''1/4'' each place it appears and inserting ''155/365''; and

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)''; and

(6) in subsection (e)(1)(B) by striking ''1/4'' and inserting ''155/365''.

(b) ADMINISTRATIVE EXPENSES.—Section 412(a)(2) of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 83) is amended—

(1) by striking ''$105,606,250'' and inserting ''$179,385,959''; and

(2) by striking ''the period beginning on October 1, 2010, and ending on December 31, 2010'' and inserting ''the period beginning on October 1, 2010, and ending on March 4, 2011''.

Subtitle B—Extension of National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs

SEC. 2201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $58,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $99,795,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $45,967,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $10,616,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $31,125,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $52,870,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $14,651,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''and $34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $59,027,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $1,029,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $1,748,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $12,315,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $6,332,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $10,756,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.''.

SEC. 2202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(7) of title 49, United States Code, is amended by striking ''$52,679,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''$88,753,000 for the period beginning October 1, 2010, and ending on March 4, 2011.''.

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(G) of title 49, United States Code, is amended by striking ''$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''$103,678,000 for the period beginning October 1, 2010, and ending on March 4, 2011.''.

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' after ''2009,''; and

(B) by striking ''and $6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $10,616,000 for the period beginning October 1, 2010, and ending on March 4, 2011.'';

(2) in paragraph (2) by striking ''and $8,066,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $13,589,000 for the period beginning October 1, 2010, and ending on March 4, 2011.'';

(3) in paragraph (3) by striking ''and $1,260,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $2,123,000 for the period beginning October 1, 2010, and ending on March 4, 2011.'';

(4) in paragraph (4) by striking ''and $6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $10,616,000 for the period beginning October 1, 2010, and ending on March 4, 2011.''; and

(5) in paragraph (5) by striking ''and $756,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $1,274,000 for the period beginning October 1, 2010, and ending on March 4, 2011.''.

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking ''2009, $15,000,000 for fiscal year 2010, and $3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010'' and inserting ''2010 and $6,370,000 for the period beginning October 1, 2010, and ending on March 4, 2011''.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking ''(and up to $7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)'' and inserting ''(and up to $12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)''.

(f) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.—Section 4123(d)(6) of SAFETEA–LU (119 Stat. 1736) is amended by striking ''$2,016,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.'' and inserting ''and $3,397,260 for the period beginning October 1, 2010, and ending on March 4, 2011.''.

(g) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA–LU (119 Stat. 1741) is amended by striking ''and 2010'' and all that follows before ''to carry out'' and inserting ''2010, and $425,545 to the Federal Motor Carrier Safety Administration, and $1,274,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2010, and ending on March 4, 2011,''.

(h) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA–LU (119 Stat. 1744) is amended by striking ''$252,000 for the period beginning on October 1, 2010, and ending on December 31, 2010,'' and inserting ''$425,545 for the period beginning on October 1, 2010, and ending on March 4, 2011,''.

(i) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(j) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA–LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

SEC. 2203. ADDITIONAL PROGRAMS.

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA–LU (119 Stat. 1910) is amended by striking ''through 2010'' and all that follows before ''shall be available'' and inserting ''through 2010 and $531,000 for the period beginning on October 1, 2010, and ending on March 4, 2011''.

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking ''For each of fiscal years 2006'' and all that follows before paragraph (1) and inserting the following: ''For each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011 the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:''; and

(2) in subsection (b)(1)(A) by striking the first sentence and inserting the following: ''From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9.''.

(c) SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.—Section 327(i)(1) of title 23, United States Code, is amended by striking ''6 years after'' and inserting ''7 years after''.

(d) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 510 of title 23, United States Code, is amended by adding at the end the following:

''(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.''.

Subtitle C—Public Transportation Programs

SEC. 2301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

SEC. 2302. SPECIAL RULE FOR URBANIZED FORMULA GRANTS.

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by striking ''DECEMBER 31, 2010'' and inserting ''MARCH 4, 2011'';

(2) in subparagraph (A) by striking ''December 31, 2010'' and inserting ''March 4, 2011''; and

(3) in subparagraph (E)—

(A) in the paragraph heading, by striking ''DECEMBER 31, 2010'' and inserting ''MARCH 4, 2011''; and

(B) in the matter preceding clause (i) by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

SEC. 2303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

Section 5309(m) of such title is amended—

(1) In paragraph (2)—

(A) in the paragraph heading by striking ''DECEMBER 31, 2010'' and inserting ''MARCH 4, 2011'';

(B) in the matter preceding paragraph (A) by striking ''December 31, 2010'' and inserting ''March 4, 2011''; and

(C) in subparagraph (A)(i), by striking ''$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011''.

(2) in paragraph (6)—

(A) in subparagraph (B) by striking ''$3,750,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'';

(B) in subparagraph (C) by striking ''$1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011''.

(3) in paragraph (7)—

(A) in clause (ii) of subparagraph (A)—

(i) in the clause heading, by striking ''DECEMBER 31, 2010'' and inserting ''MARCH 4, 2011'';

(ii) by striking ''$2,500,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'';

(iii) by striking ''25 percent'' and inserting ''155/365ths''.

(4) in subparagraph (B), by amending clause (vi) to read, ''$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011''.

(5) in subparagraph (C) by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(6) in subparagraph (D) by striking ''$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'';

(7) in subparagraph (E) by striking ''$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011''.

SEC. 2304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311(c)(1)(F) of title 49, United States Code, is amended to read as follows:

''(F) $6,369,000 for the period beginning October 1, 2010 and ending March 4, 2011.''.

SEC. 2305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

Section 5337(g) of title 49, United States Code, is amended to read as follows:

''(g) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH MARCH 4, 2011.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion 155/365ths of each dollar amount specified in subsection (a).''.

SEC. 2306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

(a) FORMULA AND BUS GRANTS.—Section 5338(b) of title 49, United States Code, is amended—

(1) By amending paragraph (1)(F) as follows:

''(F) $3,550,376,000 for the period beginning October 1, 2010, and ending March 4, 2011.''.

(2) in paragraph (2)—

(A) in subparagraph (A) by striking ''$28,375,000 for the period beginning October 1,

2010, and ending December 31, 2010'' and by inserting ''$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(B) in subparagraph (B) by striking ''$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011'';

(C) in subparagraph (C) by striking ''$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010'' and by inserting ''$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(D) in subparagraph (D) by striking ''$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(E) in subparagraph (E) by striking ''$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(F) in subparagraph (F) by striking ''$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(G) in subparagraph (G) by striking ''$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(H) in subparagraph (H) by striking ''$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(I) in subparagraph (I) by striking ''$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and inserting ''$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(J) in subparagraph (J) by striking ''$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(K) in subparagraph (K) by striking ''$875,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(L) in subparagraph (L) by striking ''$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(M) in subparagraph (M) by striking ''$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011''; and

(N) in subparagraph (N) by striking ''$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010'' and by inserting ''$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011''.

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(6) of title 49 United States Code, is amended to read as follows:

''(6) $849,315,000 for the period of October 1, 2010 through March 4, 2011.''.

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011'';

(2) paragraph (3)(A)(ii) is amended to read as follows:

''(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of amounts authorized to be appropriated for the period beginning October 1, 2010, through March 4, 2011, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 155/365ths of the amount allocated for fiscal year 2009 under each such subparagraph.''.

(3) Paragraph (3)(B)(ii) is amended to read as follows:

''(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending March 4, 2011, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 155/365ths of the amount allocated for fiscal year 2009 under each such clause.''.

(4) In clause (3)(B)(iii)—

(A) by striking ''2010'' and inserting ''2011''; and

(B) by striking ''2009'' and inserting ''2010''.

(d) ADMINISTRATION.—Section 5338(e)(6) of title 49, United States Code, is amended to read as follows—

''(6) $42,003,000 for the period of October 1, 2010 through March 4, 2011.''.

SEC. 2307. AMENDMENTS TO SAFETEA–LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1572) is amended by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of the SAFETEA–LU (49 U.S.C. 5309 note) is amended—

(1) in subsection (c)(5), by striking ''December 31, 2010'' and inserting ''March 4, 2011''; and

(2) in subsection (d), by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of the SAFETEA–LU (49 U.S.C. 5310 note) is amended by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(d) OBLIGATION CEILING.—Section 3040(7) of the SAFETEA–LU (Public Law 109–59; 119 Stat. 1639, is amended to read as follows—

''(7) $4,462,196,000 for the period beginning October 1, 2010, and ending March 4, 2011, of which not more than $3,550,376,000 shall be from the Mass Transit Account.''.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA–LU (Public Law 109–59; 119 Stat. 1640) is amended in subsections (b) and (c) by striking ''December 31, 2010'' and inserting ''March 4, 2011''.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338; 119 Stat. 1706) is amended—

(1) in subsection (c)(2), by striking ''December 31, 2010'' and inserting ''March 4, 2011'', and by striking ''25 percent'' and inserting ''155/365ths''.

(2) In subsection (d)—

(A) by striking ''2010'' and inserting ''2011''; and

(B) by striking ''2009'' and inserting ''2010''.

SEC. 2308. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—Section 8003(a) of SAFETEA–LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking ''for the period beginning on October 1, 2009, and ending on September 30, 2010,'' and inserting ''for fiscal year 2010,''; and

(2) by striking paragraph (7) and inserting the following:

''(7) for the period beginning October 1, 2010, and ending on March 4, 2011, $18,035,192,815.''.

(b) MASS TRANSIT CATEGORY.—Section 8003(b) of SAFETEA–LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking ''for the period beginning on October 1, 2009, and ending on December 31, 2010,'' and inserting ''for fiscal year 2010,''; and

(2) by striking paragraph (7) and inserting the following:

''(7) for the period beginning October 1, 2010, and ending on March 4, 2011, $4,390,137,192.''.

Subtitle D—Extension of Expenditure Authority

SEC. 2401. EXTENSION OF EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)'' in subsections (b)(6)(B) and (c)(1) and inserting ''March 5, 2011'';

(2) by striking ''the Surface Transportation Extension Act of 2010'' in subsections (c)(1) and (e)(3) and inserting ''the Surface Transportation Extension Act of 2010, Part II''; and

(3) by striking ''January 1, 2011'' in subsection (e)(3) and inserting ''March 5, 2011''.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Surface Transportation Extension Act of 2010'' each place it appears in subsection (b)(2) and inserting ''Surface Transportation Extension Act of 2010, Part II''; and

(2) by striking ''January 1, 2011'' in subsection (d)(2) and inserting ''March 5, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2010.

This Act may be cited as the ''Continuing Appropriations and Surface Transportation Extensions Act, 2011''.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Obey moves that the House concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The SPEAKER pro tempore. Pursuant to House Resolution 1782, the motion shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, I have only one speaker on this side.

I reserve the balance of my time.

Mr. LEWIS of California. I, too, will be brief.

Madam Speaker, Christmas is almost here, and we are no closer to having a budget for this fiscal year—that began in October—we are no closer than we were last Christmas regarding that work. As Mr. OBEY would say, I have minimum high regard for the process that has led us to this moment.

The House managed to pass just two appropriations bills this year. I understand the Senate passed none, I heard earlier. The remaining 10 bills never even received full committee consideration. The House has dithered away the year on insignificant suspension bills. We have named hundreds of post offices and praised every sports team in America. But the House has failed in completing its essential work, the work we were elected to do, that is, passing a budget for the new fiscal year.

This isn't exactly how any of us envisioned we would be wrapping up our legislative business this year; but with

the hour growing late, it appears that we are limping into the new year with another short-term CR. And that is the best that we can do under these circumstances.

I do want to commend our colleagues in the Senate for making the right decision and resisting the temptation to vote for a legislative Christmas tree, widely known as the 12-bill omnibus. This holiday turkey which had grown to nearly 2,000 pages, with a price tag of $1.1 trillion, simply collapsed under its own weight. The last thing the American people wanted for Christmas was yet another trillion dollars of government spending. So today we are passing a CR that allows the essential operations of government to continue into the new year when the real work of writing fiscally prudent spending bills can begin.

That work will be guided by our new committee chairman, the gentleman from Kentucky, HAL ROGERS, who will be my only speaker this evening, besides myself, and HAL's full committee ranking member, the gentleman from Washington, NORMAN DICKS. I want to wish them both well as they take on their new responsibilities.

While DAVID OBEY and I have not agreed on very much this year, let me also pause for a second to express my appreciation to DAVID and wish him and his wife, Joan, good health and happiness as they pursue new opportunities outside of the Congress.

□ 1810

And in the most direct and sincere way, let me say that DAVID OBEY is passionate about the things that he's passionate about. I don't agree with him on many policy issues, but I do want you to know this, DAVID, the country and both of our great parties need an awful lot more people with the kind of passion display. And if we had that we'd get our work done in an entirely different fashion.

Before closing, let me make two other brief comments. As frustrating as this year has been for me, I know it's been an even more frustrating year for the highly professional House Appropriations Committee. Our committee is blessed with hardworking, dedicated people who receive very little credit for the fine work they do. They are asked to sacrifice time away from family and friends, and do so willingly, working day and night and weekends and even holidays. For that, and for so much more, I want to express my personal thanks to both the majority and the minority staff of our committee. They are deserving of the appreciation of the entire House. And I wish the entire House was here to express that to them by way of their applause.

But let me also take just a moment to thank my own staff director sitting beside me, Jeff Shockey, who will be leaving the committee to pursue other opportunities after assisting Chairman ROGERS and his staff with transition. Jeff is well known and highly respected by every member of the Appropriations Committee, our leadership, and the Members of the House. The committee's loss is indeed a loss for the entire House. Jeff is one of the finest individuals with whom I've worked for over 15 years, and I ask the House to join me in wishing him well. Many don't realize that some 15 years ago Jeff actually began with us as an intern and has worked his way pretty close to the top, and he hasn't broken too many bones on the way.

Madam Speaker, let me close by wishing our colleagues and staff on both sides of the aisle a Merry Christmas and a Happy New Year.

I reserve the balance of my time.

Mr. OBEY. Madam Speaker, I was in error. We have two speakers on this side.

I now yield 1 minute to the distinguished Speaker of the House.

Ms. PELOSI. Madam Speaker, I rise, not to talk about the continuing resolution that is before us, but in praise of the gentleman from Wisconsin (Mr. OBEY), the chair of the Appropriations Committee. And this, hopefully, will be the last piece of legislation, not that hopefully it's your last, but hopefully it's the last that this body will hear from the Appropriations Committee. And I want to take the time on this bill to express the gratitude of our colleagues in the House, to the people of our country who care about America's working families, and to all who care about a world at peace, to thank Mr. OBEY for his tremendous leadership. I rise to celebrate his career and the contributions. I think he is one of the greatest appropriators and one of Congress' greatest legislative minds.

For more than four decades he has fought in favor on this floor for the people of the Wisconsin seventh district and for America's middle class. He is a visionary for a better life for the American people and a legislative genius. He has an ability to see around corners, anticipate challenges and opportunities, and sustain a fight on behalf of what is right.

I had the privilege of serving on the Appropriations Committee under the leadership of DAVE OBEY. He was my chairman on the full committee and on Labor, Health and Human Services, and he was chair for a long time of the Foreign Operations Subcommittee of Appropriations, which appropriated our foreign aid. To that committee, the Foreign Ops Committee, he brought the values of middle America to our foreign policy. Values-based, people-oriented, again, in the interest of our national security, the strength of our country and recognizing that that strength was also about our values.

He then chaired the Health and Human Services Subcommittee, where he measured the strength of our country in another way, in the health, the education, the economic well-being of America's working families. To see him operate on that committee was to see a master at work. We use that phrase from time to time. In the case of DAVE OBEY, it is an understatement. I sometimes think, when he's working, of the phrase, you'll understand when you understand, because when DAVID sees so far down the road from the rest of us, sometimes we're not quite up there with him, and then he is always right. I don't know whether he's a self-fulfilling prophecy or he's just always right from the start.

For nearly half a century, from demanding open committee hearings, more transparency in our caucus, ethics reform, he has been an unyielding and unflinching reformer.

Mr. OBEY, again, as I've said, was my chairman and, as a chairman, he had no parallel. He refused to allow measures designed to harm our air, water, and environment into the Federal budget. And after 9/11, he reached across the aisle to secure funding for first responders and the recovery effort and to extend our investment in homeland security.

Of course he championed Federal investments in education, and devoted his energy to making health insurance a right, not a privilege for all. And it was a special privilege for all of us here to see DAVE OBEY gavel down the health care reform bill. It is a well-deserved privilege for him, a recognition by his colleagues in the House that he was the one who should do that.

In every hearing in his committee, and with every vote, Chairman OBEY sought to strengthen the middle class, and he acted on the belief that how we invest the public's money reflects our values as a people and will determine the future of our country.

The reach of Mr. OBEY's achievements has extended nationwide. But his first priorities have always been for the families, the workers, the businesses, and the communities of his beloved district.

LIHEAP, for one. We always knew how important low-income—LIHEAP is a term of art here, and DAVE OBEY has been a great champion for it, as he has been for Pell Grants and other initiatives that affect America's working families. But the aspirations of his constituents, their hopes, their challenges, that was his call to action.

Chairman OBEY's official biography opens with these words: ''Every American who works hard should be able to fully share in the bounty of America, and so should their families.'' This has been DAVE OBEY's mission statement. He has been a transformational figure in Congress. His leadership on behalf of the American people, as I said, is unsurpassed.

He has been blessed by a wonderful family. And we all are grateful to his wife, Joan, and his sons for sharing DAVID with us. We also want to salute his staff person, his staff director, Beverly Pheto, for her leadership and her excellent work, and some might say, her patience with this great mind.

I just have to tell one story on DAVE OBEY because I just love it so much.

DAVE OBEY, as I mentioned, was the Chair of the Foreign Ops Subcommittee. Some years later, after CHARLIE WILSON was chair in that, I had the privilege of becoming the ranking member on that committee, no longer in the majority. So when we went to the floor for the first bill that we were managing, that I was managing on the minority side, I was very prepared and ready and wanted to please DAVID.

So I made my case, we won our amendments. I see Congresswoman LOWEY is here who now chairs the Foreign Ops Committee. And after we won our amendments, it was very bipartisan then. It wasn't that confrontational.

But, in any event, after it was finished, and the job was done, I looked to DAVID for some sign of something, at least that it was over. And DAVID said to me, You did all right, but I think you could have been more diplomatic.

□ 1820

Now, hearing DAVE OBEY tell me I should be more diplomatic, well, DAVID, of all the things he is known for, diplomacy is not among them. And that happened to be on the heels of running into BARNEY FRANK on my way to the rostrum to manage the bill. He said to me, That suit you have on, give it away. It looks terrible on you.

And I thought, In 1 day, I have gotten fashion advice from BARNEY FRANK and diplomacy advice from DAVID OBEY. Maybe I will go home and start all over again, with all due respect to their various strengths.

Reformer, visionary, public servant, DAVID OBEY has our gratitude and our appreciation. We will miss him enormously. He cannot be replaced. His legacy will live long in this body and in this country. We will long benefit from his leadership, his commitment, his values, his impatience, his eloquence, his Archy. His Archy, whose words of wisdom have guided us on occasions where other eloquence may have fallen short.

The Congress he loves so much will miss DAVE OBEY. And I hope that he leaves here knowing the high regard that his colleagues hold him in, the deep respect we have for his intellect, his boundless energy, and from time to time, yes, his humor, and occasionally his diplomacy.

So, Mr. Chairman, thank you. It has been an honor to serve with you. I know, again, that I speak for all of our colleagues when I say it is an honor to call you ''colleague.'' Thank you, Mr. OBEY, for what you have done for our country.

Mr. LEWIS of California. Madam Speaker, I have only one speaker, but I am very happy to yield all the time he might consume to HAL ROGERS, the chairman-elect of the Appropriations Committee.

Mr. ROGERS of Kentucky. Thank you, Mr. LEWIS, for yielding time.

It's been a real pleasure, and I mean that very sincerely, working under the leadership of JERRY LEWIS on our side of the aisle, both as chairman and as ranking member of this committee for these last 6 years. He has been gracious in every way. He has lent his talent and his wisdom to us as we prepare to do business. And not the least, he has volunteered his terrific staff, led by Jeff Shockey, to help us in the transition. And I can't say enough to thank JERRY LEWIS and all of the staff for all the great work that you have done for the country and continue to do. And we have got some heavy work cut out for you as well, and for the staff.

Madam Speaker, in my vocabulary, one of the most complimentary things I could say is a person is a difference maker. A difference maker sees circumstances that are not correct and applies wisdom and intelligence and perseverance and talent to change. And I can't think of a bigger difference maker—sometimes I thought in the wrong direction, but a difference maker—than DAVID OBEY. During my tenure here, coinciding with his, we have watched him over the years with that tenacity and innovation, sometimes blustery, sometimes entertaining, but always very efficient. And we will miss DAVID OBEY in this body.

This is the last chance that we will have, perhaps, to say good-bye and best wishes. But I think I speak for the entire body when we say to DAVID OBEY, Thank you for your service to America. Thank you for your leadership and your talent on this committee. And we wish you the very best in your future endeavors, especially during the next week as we all celebrate the birth of the Christ child.

And to Beverly and to Jeff and all of the staff on both sides of the aisle, the long hours that these people put in so that the rest of us can look good perhaps is not appreciated fully, and we need to continuously do that.

So to DAVID OBEY, bon voyage, best of luck to you. And thank you, JERRY, for the great service you are rendering your country.

Mr. OBEY. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. I thank the chair for yielding to me because it's been such an honor for me to serve with DAVID OBEY, one of the most effective legislators this body has known. And we are so sad to see your service in Congress coming to an end.

People have described DAVID many ways: direct, gruff, cantankerous, and maybe even some words not suitable for the CONGRESSIONAL RECORD. But for me, it has been such a great honor to serve with somebody who exemplifies exactly what a Representative should be. He is one of the most principled legislators this body has ever known.

DAVID's critical role in bringing to an end the Vietnam War, a sad chapter in American history, is well known. He understands and takes seriously the congressional role in authorizing war and peace, and he has never taken lightly our solemn obligation to the American people in this regard.

He has served this institution with great honesty. Regardless of your request, idea, opinion, or question, you never have to wonder about where DAVID OBEY stands. He is always going to tell it to you straight. And even in holding one of the most powerful positions in Congress, he never lost sight of who exactly sent him here—the people of Wisconsin's Seventh District.

To this day, more than 40 years after he was elected to Congress, he still maintains the fierce, dogged determination on behalf of the health, education, safety, and economic opportunity of the people of Wisconsin. The United States Congress is a better institution, the people of Wisconsin are better off today as a result of your service. And even though some may describe you in colorful ways, I will always be proud to call you a colleague and a dear friend.

Mr. OBEY. I yield 1 minute to the distinguished majority leader, the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

I hesitate to speak of course, lest we get off message, but I am going to take that chance in any event.

I have had the opportunity of serving for a long period of time with Mr. LEWIS, Mr. ROGERS, Mrs. LOWEY, Ms. DELAURO, Mr. DICKS on the Appropriations Committee. I am not sure I see anybody else who served on that Appropriations Committee with us. And I served on the Labor, Health, Human Services, and Education Subcommittee of the Appropriations Committee. And I went on in January of 1983. I won't go all through every year from 1983 to today. That would take too long and would bore you stiff.

But I had the great privilege of sitting just a couple of chairs from the gentleman from Wisconsin, who had been in the Congress some 12 years before I came, having been elected in 1969. Served over four decades in this body. I will adopt all the words that were ascribed to him by the gentlewoman from New York, but three words that I would use are ''tough,'' ''courageous,'' and ''effective.''

□ 1830

I think the gentleman from Kentucky caught it as well. He is a difference maker. I think, Congressman ROGERS, your words were very appropriate, not because you agreed or others agreed necessarily with the difference he wanted to make, but you knew if DAVID OBEY was engaged in an issue, he would make a difference on that issue.

From my perspective, the good news is DAVID OBEY was almost invariably engaged on the issues he thought affected average people, who were not so average at all. Whether it was their education, their health, their housing, making sure the NIH was trying to find cures for diseases that afflicted them,

whether he was standing up to make sure that people in the cold of winter had heat or in the scorching heat of summer had air conditioning to keep them healthy, DAVID OBEY could always be counted on as a strong, unwavering, uncowering voice on behalf of people who needed a voice. They had a special interest, but they did not have money to hire voices. They needed voices in this body that we know as the people's House.

The people on some 20 occasions returned DAVID OBEY to the Congress of the United States. Maybe it was one more than that, 21 occasions. They returned DAVID OBEY to the Congress of the United States because they saw in DAVID OBEY that voice that they needed and wanted and respected.

DAVID OBEY, in addition to the three attributes I ascribed to him, is honest. One of the things I most admire in DAVID OBEY and one of the things I most cherished was his slaying of the dragon of hypocrisy. I don't think anything angered DAVID OBEY more than seeing hypocrisy. There is too much hypocrisy, where we say, Oh, we are for this, and then we vote for that, or vice versa. We could always count on DAVID saying, Hey, you want to be honest? Stop posing for holy pictures.

I am sure that has been mentioned during the course of this, because there is a famous phrase that we all remember by DAVID OBEY. By that, he meant, of course, be real. Don't try to flim-flam the public. Stand up for what you believe in, not what you think people want to hear. And we had no better example and no more faithful example of that performance than DAVID OBEY.

I want to thank DAVID OBEY. I want to thank him for being my friend. I want to thank him for being an example of what Members of Congress ought to be. I want to thank him for being a steadfast, faithful voice for the people who needed a voice, a leader on behalf of the principles that I think this country was speaking about when it said that we establish a government to protect the general welfare. DAVID OBEY believed that to his very core, and every day of his service his belief was manifest in his actions.

I also want to thank my friend JERRY LEWIS. Every day that I served on the Appropriations Committee, I served with JERRY LEWIS, and almost every day with HAL ROGERS. HAL came a little after JERRY and I came to the committee.

One of the things that I recall to people about this committee is that for most of my service, not all of my service, unfortunately, but for most of my service it was arguably the most bipartisan committee in the Congress of the United States, where we worked together, made determinations together. And, yes, there were differences, but we did so in a civil, collegiate way that the American public I think would have appreciated.

JERRY LEWIS has been someone who has focused on our institution. For many of the years that I served, JERRY LEWIS and Vic Fazio from California were chairs of the Legislative appropriations committee, and they worked together as a team to make this institution more effective, better serving its Members and better enabling its Members to serve the Nation.

JERRY, I want to thank you for your service as chairman of the committee, but as a member of the committee and certainly as chair of the committee that didn't get much publicity and sometimes was a thankless job, but was a job that you and Vic did in the best traditions of what the American public says it wants—bipartisan cooperation, positive partnership—and I thank you for that.

HAL, I wish you the best of luck as you undertake these responsibilities. We are losing a giant as DAVID OBEY retires. DAVID OBEY chose to retire. There is no doubt in my mind if he had chosen to run again, his people would have sent him back.

So, DAVID OBEY, you have been a great Member of this Congress. You have served your country, your State, and our people well. We are, all of us, in your debt. Godspeed.

Mr. OBEY. I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. I met DAVID OBEY 20 years ago. I was elected to this body, never having run for office before. I came to the freshman orientation. I sat at the end of a long table and I listened to people come in and tell us what we needed to know about this institution. And I listened to one DAVID OBEY at the far end of the table, from Wisconsin, and he spoke about appropriations and he spoke about the budget process and the Budget Committee, et cetera. And I said to myself, My god, what have I done? I am in so far over my head, I am never going to make it.

Over 20 years, DAVID OBEY has become one of my dearest friends, my mentor, and, yes, we do conspire to try to do good things. He has shown me the power of this great institution and how it can change people's lives, to make opportunity real for people, for ordinary people. He is a smart, he is a savvy legislator. No one knows more about the issues, about the politics, and about the process and about getting it done.

He is incorruptible, and, as many know, he does not suffer fools. And he is a real flesh-and-blood human being. He has passion on the issues that we deal with, and they are based on a wellspring of values. Born and raised in a working class family in Wisconsin, he knows what the struggle is about. He has walked in the shoes of the people of this country, and he knows that it is this great institution that can turn it around.

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

Mr. OBEY. I yield the gentlewoman 1 additional minute.

Ms. DELAURO. He tells the truth fearlessly, and he is a patriot in every sense of the word.

I will miss DAVID's commitment, his dedication, and his integrity. And though soon no longer to be a colleague, he will always be my friend, and I think I know that whenever I am in trouble, I can pick up the phone and say, DAVID, what should I do?

I will miss you deeply, my friend. I will miss you deeply.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS of Texas. Madam Speaker, DAVID OBEY would be the first to say our democracy is bigger than any one of us, but I come here tonight to say that in the history of Congress, he is truly one of its giants. It is hard to imagine Congress without him. He has been a giant of courage, a giant of ethics, a giant of insight and wisdom as an institutionalist who believes in this House with all of his heart and soul, and a giant in the fight for everyday citizens who often don't have a voice speaking for them.

□ 1840

I want to pay special tribute to Chairman OBEY for what he has done so quietly behind the scenes for America's veterans. He has been their unsung hero. In the 4 years that he has chaired the Appropriations Committee—these past 4 years—we have ended up, under his leadership and in partnership with Speaker PELOSI, with 3,000 new VA doctors, 13,000 new VA nurses, and 145 new VA community clinics. All of that means better care, more timely care, more quality care for America's heroes and their families. It means respect to those who serve—respect with our deeds and not just with words.

The greatest tribute I can pay as a father to DAVE OBEY is he has truly made a difference for my family and for the American family. Perhaps the greatest tribute he could hear, though, is that, I would say if Archy the Cockroach and Richard Bolling were here today on the floor of this House, they would say, Mr. Chairman, job well done.

It has been a privilege to work with you and to learn from you. You will have left this country a better place. For that, we all thank you and salute you.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. First of all, I want to thank DAVID OBEY for all the help that he has given me over my entire career. I can remember the first weekend I was going to be on the committee, I called him at home and I said, Do you think I can offer this amendment to change the size and ratio of subcommittees? And he says, They'll never let you do it, but I'll vote for it because it's the right thing to do. That's how I first met DAVID OBEY.

After 30 years, when I became chairman of the Interior Appropriations

Subcommittee, I relied on him greatly for a good 302(b) allocation. Because of that, good 302(b) allocation we were able to do some incredible things. We had been working together on the national parks. We had worked on the fish and wildlife refuges. We had worked on improving the arts and humanities. And the Interior appropriations bill I know was one that DAVID enjoyed immensely because he always was asking me, How's this going? How's that going?

And I just want to thank him for everything that he's done in the last few days and over the years. He has been a tremendous leader. He has done great things for this country. Our natural resources are stronger because of DAVID OBEY. And I have enjoyed being with he and Joan at Zion and out at Olympic National Park this year. We've had some wonderful experiences.

I want to say to my friend, JERRY LEWIS, who's done a great job, JERRY and I have been friends. We traveled together. When I became chairman of the Defense Subcommittee after the loss of our great friend, Jack Murtha, JERRY and JEFF went with me on almost every single trip to help me, to be there, and to show support. It made a great difference. I want to say, JERRY, I will always remember it.

HAL, I look forward to next year. We'll work together. I hope that we can have a successful year; that we can get these bills passed. You will have my cooperation.

Again, Bev and all the staff, those are the people—Paul Juola is here from the Defense Subcommittee. I've never seen people work as hard as the staff of the House Appropriations Committee. They're there every day, night, weekends. It's amazing to me the work that they put in. I just appreciate so much, having been a former staffer myself, how much more professionalism and how much more capability this staff has. DAVID, you and Bev built a great staff, and we hope to keep that staff.

Thank you for your help and thank you for your friendship.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Madam Speaker, when I realized this tribute was underway, this spontaneous tribute on the floor of the House, I rushed over here because I very much want to add my word of respect and commendation and friendship as we recognize DAVE OBEY's years of service in this body and his retirement.

I have been drawn to DAVE and his knowledge of this institution, to his mentorship and leadership, ever since my earliest days here. I came here from a background as a student of the Congress; here was actually an architect of the modern Congress, generous with stories and accounts of his early days here with the Democratic Study Group and the reforms that transformed this place in the 1970s.

He has carried that spirit of reform forward, and is still a reformer at heart. So I have been intrigued with that, as have many colleagues, and have learned a great deal from DAVE OBEY about that history, but also from our day-to-day association. He has an incomparable knowledge of the history of this place, a mastery of the House and a great loyalty to the institution, and a desire to make it work better. We all know that and admire him for it.

In more recent years, DAVE has been best known as the distinguished ranking member and then chairman of the Appropriations Committee. He has exemplified what those of us on the Committee like to think of as the spirit of appropriations—the work ethic and mastery of the bills; the careful drafting, line by line; the holding of the administration accountable, no matter which party is in charge in the White House; and the sense that appropriations—the power of the purse—is really at the heart of this institution's constitutional role. We need to do appropriations well, we need to do it cooperatively, and we need to assert ourselves as an institution, calling the executive agencies to account.

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

Mr. OBEY. I yield the gentleman 30 additional seconds.

Mr. PRICE of North Carolina. DAVID OBEY has been a master of procedure and strategy, a masterful chairman of appropriations.

Finally, let me say this: Sometimes it's thought around here that in order to be effective, in order to be well liked, in order to do the job, you've got to be a go-along, get-along kind of guy. Well, that is not DAVE OBEY. In fact, it's precisely because of his forcefulness, precisely because of his passion for justice, his unyielding determination to fight for what he believes in, that he has our respect and affection and the effectiveness in this institution that he has. In that respect, as in so many others, he's been a role model for us all, and I'm proud to join in this salute here tonight.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Madam Speaker, I'm pleased to stand up and have the opportunity and honor to say a few words about the distinguished chairman of the Appropriations Committee, my chairman, DAVID OBEY. We all operate on teams here in the Congress. I'm especially proud to be on DAVID OBEY's team, serving as one of the chairmen of one of the subcommittees under DAVID's jurisdiction.

DAVID has long distinguished himself in public service. He started in the Wisconsin Assembly in 1963, and served until 1969. At the beginning of his career he may have stumbled into the wrong political party. But seeing the Joe McCarthy experience, he soon learned and developed an aversion for duplicity and felt that the Democratic Party was the home for him. I think they best reflect his Midwestern values and his progressive attitudes. I associate myself with those values and those attitudes, which makes it especially pleasurable to be a part of his team.

I'm sure it's been mentioned here before that DAVID served in Congress for a long time and that he came to the Congress as the youngest Member when he came, at 30 years old, and he's served 42 years. So, do the math. And now he's voluntarily retiring from this institution, having left a very distinguished record from the beginning. Arriving with new ideas about how the Congress ought to operate and how it ought to be more open and how it ought to be more embracing of new Members, he was extremely effective in implementing those ideas, moving on through his career to higher responsibilities and becoming, ultimately, chairman of, as we refer to it, the powerful Appropriations Committee.

□ 1850

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

Mr. OBEY. I yield the gentleman 1 additional minute.

Mr. MOLLOHAN. His values that he came here with he continued to want to express. It was very important for him to continue his service as chairman of the Labor, HHS, Education Subcommittee where he could really affect all of those constituencies, which really allowed him to do those things that were important to him and to express that progressive attitude.

Madam Speaker, DAVID OBEY has been a real contribution to the United States Congress. During his career—and it will be lasting after his career—his mark has been indelible in the reforms that are reflected in how we do business here. I don't know of a person in the institution who could have assimilated within the appropriations process—the rules and changes in procedures in the way we did business in response to legitimate concerns about the appropriations process—better than DAVID OBEY. It was his ability to separate the chaff from the grain, to understand what were legitimate expressions of concern about the appropriations process, his ability to deal with them, and his embracing the prerogatives of the appropriations process. At the same time, we recognize the process of the legislative branch reflects that which will really be his legacy.

Madam Speaker, thank you for allowing me to say a few words. I want to personally thank DAVID OBEY for his personal considerations.

Mr. LEWIS of California. Madam Speaker, I had indicated I had no additional speakers, but with this display of love and affection this evening, my colleague, TOM COLE from Oklahoma, just had to come down for a couple of minutes.

I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. I thank the gentleman for allowing me to have time.

Madam Speaker, I must admit I was in my office, signing letters, with the television off—muted—when I noticed a succession of Democratic speakers, which, as a former NRCC chairman, was a horror to just watch one after the other. I thought we must be getting beaten to death down there. What's going on?

So I flipped on the sound, actually, just in time to see Mr. ROGERS from Kentucky come on, and I thought this is actually some sort of bipartisan lovefest going on. We don't have a lot of that around here, and I wanted to get down and participate.

You know, this is not, frankly, a very good time to be a Member of Congress. None of us are held in high esteem by the American public. I think it is an even more difficult time, quite frankly, to be a member of the Appropriations Committee because there are times when I think we're not held in much esteem by our own colleagues. I have heard so many things from some of our good friends on the authorizing committees that I think they forget the very simple fact that they always authorize more money than we spend on the Appropriations Committee and that we are usually left with the tough job of reconciling differences that have been unresolved on the authorizing committees. It is something that needs to be experienced by every Member of Congress before they appreciate the magnitude and the quality of the work that goes on on this particular committee.

I had the opportunity to know my good friend Chairman LEWIS many, many years ago. In 1991, I arrived in Washington, D.C., to be the executive director of the National Republican Congressional Committee. I had been here a few weeks when, all of a sudden, I got a message that I needed to go over and see my friend, who was the conference chairman. I thought I've only been in town a month, and I've already managed to offend one of the most powerful Republicans in Congress. I actually brought a staff member with me so that, if I were in real trouble, the staff guy and the additional staff guy could handle the problems.

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

Mr. LEWIS of California. I yield the gentleman 1 additional minute.

Mr. COLE. We chatted for a minute, and the gentleman immediately said, Well, actually, I just wanted to get to know you because I'd heard a couple of nice things about you.

Since that time, he has been nothing but kind and generous to me. Frankly, I've watched him define what a Member and an appropriator ought to be year in and year out in the minority and in the majority. He has just absolutely served this body with incredible class and incredible character and incredible professionalism every single day he has been here.

I would be remiss not to talk about my friend Chairman OBEY as well. Frankly, I'd heard about Chairman OBEY—again, before I'd ever arrived—from my old boss, Mickey Edwards. Mickey Edwards told me he was often wrong but always honest, and you could deal with him. Indeed, I found that to be the case on the last two points, not necessarily on the first. He has been a wonderful chairman, a wonderful colleague, somebody who is a credit to this institution and a credit to his district. I think he defines, as my friend Mr. LEWIS does, who and what a chairman ought to be and how a Member of this body ought to act.

If everybody in America knew these two gentlemen, the opinion of this institution would be enormously higher.

Mr. OBEY. Madam Speaker, we really do need to bring this to a conclusion, so I yield 1 minute to the last speaker, the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Thank you.

You know, the challenge, I think, every person who is elected to Congress faces is: How do you challenge the institution but respect it? How do you stretch the limits but abide by tradition and see its importance?

DAVID OBEY has managed, over the course of a long career, to do it.

He came here as a young man, aged 30. When he came here and saw what was here, he didn't like everything he saw, and he did challenge it. He moved up in the hierarchy here, out of turn, faster than many people thought he should because he did challenge the institution, but he did it in a way that he respected what the Congress had to do as an institution.

You know, people talk about his irascible temper, or his irascibility, but he leaves with the same passion to challenge the institution—to challenge its limits but to respect fundamentally that this institution has traditions that we all are custodians of. When we are at our best, we manage to do both.

DAVID OBEY, over a long career, you have done that. Thank you very much.

Mr. OBEY. I yield 1 minute to the distinguished gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentleman for yielding.

Madam Speaker, it is very hard to find an honest man in life, and I would like to place on the record that DAVID OBEY is an honest man and that he served the people of his district admirably all these years. Some have wondered about his contentious nature on occasion, but you'd really have to understand what a ''Badger'' is to know where that all comes from.

He has been a phenomenal husband, as I know his wife agrees, and has been a very, very good father. He has been a friend to all the Members who have served. He has treated us fairly, and his brilliance reflected in his books and in the laws and in the efforts that he has made here over decades and decades simply cannot be replaced. We from the Midwest know what we are losing as he chooses to leave this institution.

I want to thank him for all he has done for the Great Lakes Region, for the people of Ohio, for our country, and for setting a standard, for those who follow, that will be very, very hard to meet and that will probably never be fully met.

I want to thank this great Badger for his years of service to America and helping move liberty forward.

God bless you and your family, DAVE.

Mr. LEWIS of California. Madam Speaker, I am more than happy to express my deep appreciation for the service of DAVID OBEY.

I yield back the balance of my time.

GENERAL LEAVE

Mr. OBEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on the pending legislation.

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

There was no objection.

Mr. OBEY. Madam Speaker, I appreciate all of the kind words that have been said about me tonight. I must confess that I sometimes am more at ease when I am being pummeled than when I am being praised, but maybe that's just my quirky character.

□ 1900

Let me simply say that this is the last time that I will be making any comments on this floor. I want to thank the Members on both sides of the aisle for their courtesies over the past 42 years, and I want to say that it has been a privilege for each and every one of us, whether we have served here one term or 21 or even more, it is a privilege for all of us to have been sent to this place, to the people's House. I can think of no greater privilege and you cannot. This is the only place in the government that you have to be elected in order to occupy our jobs. In the Senate you don't have to be elected. Even in the Presidency, you don't have to be elected under quirky circumstances, and I think all of us can be proud of that distinction.

Let me also say, Madam Speaker, that I do think I need to say at least a word or two about the subject at hand, this piece of legislation. John Wesley said that his rule for living was this: do all the good you can, by all the means you can, in all the ways you can, in all the places you can, at all the times you can, to all the people you can, as long as ever you can.

I wish I could say that this legislation lived up to that lofty goal. It does not. It has many, many shortcomings.

The only reason for supporting this legislation today—and it is an overriding one—is to keep the government operating. If I were to vote my preferences, I would vote ''no'' because I believe we should have before us today a continuing resolution for the rest of

the fiscal year. The only reason we do not is because only in the United States Senate can you get a majority of votes for any proposition and still lose because of their peculiar rules.

I think the difference between the way our two respective parties have handled similar situations is interesting.

Four years ago, when our party took control after 12 years of rule by our friends on the other side of the aisle, the outgoing Republican majority chose to simply dump most of the work for that fiscal year onto the incoming Democratic majority by passing a short-term CR. That meant that we had to spend the first 2 months dealing with the previous year's business rather than being able to start with a clean slate in dealing with new problems.

In contrast, today's outgoing Democratic majority has tried mightily to clear the deck for the incoming Republican majority by producing a full-year CR, which attempts to compromise by producing funding levels that were $46 billion below the President's budget and which amounted to a freeze at the previous year's level. Passage of that legislation would have meant that the incoming Republican majority would be able to start with a clean slate in working with the President on a whole host of major problems.

But, instead, we are here today confronted with this legislation, which expires on March 4 and which will require the incoming Republican majority to spend the first 2 months of its stewardship dealing with last year's business. I think that's unfortunate. Through the use of the Senate filibuster, it has been assured that we could not complete a full-year CR. That action simply mirrors the procedural resistance with which we have been faced all year long with the Senate minority engaging in more than 87 filibuster actions in order to grind matters to a halt and frustrate the Congress' ability to do anything on the budget front by majority vote.

That is unfortunate; but at this late date, there is no point in arguing. The die is cast, obviously. The only responsible choice at this point is to recognize reality, even though that means that the early days of the next Congress will be unnecessarily confrontational and partisan. It means that, on budget issues, most of next year will simply be about demonstrating political leverage rather than working through honest, substantive differences to reasonable conclusions. Because of that, I most reluctantly, but firmly, suggest an ''aye'' vote.

I want to take an additional minute to thank two people in this Chamber who the public will never know, but there are many, many of them over Capitol Hill who work day in and day out to produce a better country, and the public never knows their names. One of them with us tonight is Jeff Shockey, who has done an admirable job as minority staff director on the committee for years. Sometimes I wish he hadn't been so good, but I do appreciate the work that he has done.

And, lastly, I do not know what I would have done without Beverly Pheto as the chairman of the Appropriations Committee. She is an absolute true professional. She has imagination, she has courage, she has stamina, and most of all, she has an amazing ability to put up with me, and that alone ought to get her the Congressional Medal of Honor.

So, with that, I would simply say good-bye to you-all, and I would hope that we would cast a responsible vote so that we can get about the country's business next year, even though many of us will not be here to participate.

Mr. VAN HOLLEN. Madam Speaker, I rise in support of this Continuing Resolution, which will fund government operations at FY 2010 levels through March 4, 2011.

Madam Speaker, this bill is not my first choice, or even my second choice. And I don't think anyone believes our country is well-served by having its government run on a series of short-term funding measures. But since the Senate was apparently unable to act on either the House-passed year- long Continuing Resolution, or an Omnibus spending package, we are left with today's resolution.

When the 112th Congress convenes, I sincerely hope we will be able to return to regular order and enact annual, fully vetted, fiscally responsible spending bills that reflect the pliorities and values of our nation.

Mr. OBEY. I yield back the balance of my time

The SPEAKER pro tempore. Pursuant to House Resolution 1782, the previous question is ordered.

The question is on the motion by the gentleman from Wisconsin (Mr. OBEY).

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

Mr. LEWIS of California. Madam 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, this 15-minute vote on the motion to concur will be followed by a 5-minute vote on suspending the rules with regard to H.R. 6547.

The vote was taken by electronic device, and there were—yeas 193, nays 165, not voting 75, as follows:

[Roll No. 662]

YEAS—193

Ackerman
Altmire
Andrews
Arcuri
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Bonner
Boren
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Clarke
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (TN)
DeGette
DeLauro
Dicks
Dingell
Donnelly (IN)
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Gordon (TN)
Grayson
Green, Al
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maloney
Markey (CO)
Markey (MA)
Marshall
Matsui
McDermott
McGovern
McNerney
Meek (FL)
Meeks (NY)
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Perlmutter
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Snyder
Space
Speier
Spratt
Stupak
Sutton
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Walz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Yarmuth

NAYS—165

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boccieri
Boehner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Buchanan
Burgess
Burton (IN)
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coffman (CO)
Cole
Conaway
Connolly (VA)
Davis (KY)
DeFazio
Dent
Diaz-Balart, M.
Djou
Doggett
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Kratovil
Kucinich
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Maffei
Manzullo
Matheson
McCaul
McClintock
McCollum
McCotter
McHenry
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Murphy, Tim
Myrick
Neugebauer
Nye
Olson
Paul
Paulsen
Pence
Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Stutzman
Sullivan
Taylor
Terry
Thompson (PA)

Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Wu

NOT VOTING—75

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Boyd
Bright
Brown (SC)
Brown-Waite, Ginny
Buyer
Calvert
Camp
Campbell
Cao
Chu
Clay
Coble
Costello
Crenshaw
Culberson
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Fallin
Granger
Green, Gene
Griffith
Gutierrez
Heller
Herseth Sandlin
Hill
Hinojosa
Hodes
Honda
Johnson, Sam
Jones
Kanjorski
Kennedy
Kilpatrick (MI)
King (NY)
Lee (CA)
Linder
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris Rodgers
Melancon
Miller, Gary
Mitchell
Moore (KS)
Moran (KS)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Sires
Smith (WA)
Stark
Tanner
Wamp
Wasserman Schultz
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1935

Mr. WU changed his vote from ''yea'' to ''nay.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROTECTING STUDENTS FROM SEXUAL AND VIOLENT PREDATORS ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 6547) to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees, 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 California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 314, nays 20, not voting 99, as follows:

[Roll No. 663]

YEAS—314

Ackerman
Aderholt
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Bachmann
Bachus
Baldwin
Barrow
Bartlett
Bean
Becerra
Berkley
Berman
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blunt
Bonner
Bono Mack
Boozman
Boren
Boswell
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Brown, Corrine
Buchanan
Burgess
Burton (IN)
Butterfield
Cantor
Capito
Capps
Capuano
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Clarke
Cleaver
Clyburn
Coffman (CO)
Cohen
Cole
Connolly (VA)
Conyers
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (KY)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Dreier
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Fudge
Garamendi
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Graves (MO)
Grayson
Green, Al
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Herger
Higgins
Himes
Hinchey
Hirono
Holden
Holt
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
Latta
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebsack
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McClintock
McCollum
McCotter
McDermott
McHenry
McIntyre
McKeon
McNerney
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olson
Olver
Owens
Pallone
Pascrell
Paulsen
Payne
Pence
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiahrt
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Waters
Watson
Watt
Waxman
Weiner
Welch
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth

NAYS—20

Broun (GA)
Conaway
Ehlers
Flake
Garrett (NJ)
Graves (GA)
Hensarling
Hoekstra
Inglis
Jordan (OH)
King (IA)
Kingston
Miller (FL)
Neugebauer
Paul
Poe (TX)
Shadegg
Stutzman
Thornberry
Westmoreland

NOT VOTING—99

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Blackburn
Blumenauer
Boccieri
Boehner
Boucher
Boyd
Bright
Brown (SC)
Brown-Waite, Ginny
Buyer
Calvert
Camp
Campbell
Cao
Cardoza
Chu
Clay
Coble
Cooper
Costello
Crenshaw
Culberson
Davis (AL)
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Duncan
Emerson
Fallin
Frank (MA)
Gallegly
Gordon (TN)
Granger
Green, Gene
Griffith
Gutierrez
Harman
Heller
Herseth Sandlin
Hill
Hinojosa
Hodes
Honda
Hoyer
Johnson (IL)
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Lamborn
LaTourette
Lee (CA)
Lee (NY)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McGovern
McMahon
McMorris Rodgers
Melancon
Miller, Gary
Mitchell
Moran (KS)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Perlmutter
Price (GA)
Radanovich
Reyes
Ros-Lehtinen
Roskam
Rush
Ryan (WI)
Salazar
Sanchez, Loretta
Schock
Sires
Smith (WA)
Stark
Tanner
Tiberi
Wamp
Wasserman Schultz
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 1 minute remaining in this vote.

□ 1944

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BOCCIERI. Madam Speaker, on rollcall No. 663 To Amend The Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees, had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Madam Speaker, on rollcall Nos. 662 and 663, had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. CHU. Madam Speaker, I was absent on December 21, 2010. Had I been present, I would have voted ''yes'' on the following:

H. Res. 1771—Same Day Consideration Rule; H.R. 6540—To require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess (Rep. INSLEE—Armed Services) Suspension bill; Motion to Concur in the Senate Amendment to H.R. 5116—America COMPETES Reauthorization Act of 2010 (Rep. GORDON—Science and Technology); Motion to Concur in the Senate Amendment to H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act (Rep. CUELLAR—Oversight and Government Reform); Motion to Concur in the Senate Amendment to H.R. 2751—FDA Food Safety Modernization Act (Reps. WAXMAN/DINGELL—Energy and Commerce); S. 3243—Anti-Border Corruption Act of 2010 (Sen. PRYOR/Rep. SHULER—Homeland Security) Suspension bill;

Motion to Concur in the Senate Amendment to H.R. 3082—Making Further Continuing Appropriations for Fiscal Year 2011 (Rep. OBEY—Appropriations); H.R. 6547—To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees (Rep. GEORGE MILLER—Education and Labor) Suspension bill.

PERSONAL EXPLANATION

Ms. HERSETH SANDLIN. Madam Speaker, I regret that I was unable to participate in eight votes on the floor of the House of Representatives today.

The first vote was H.Res. 1771—Same Day Consideration Rule. Had I been present, I would have voted "nay" on that question.

The second vote was H.R. 6540—To require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess. Had I been present, I would have voted "yea" on that question.

The third vote was Motion to Concur in the Senate Amendment to H.R. 5116—America COMPETES Reauthorization Act of 2010. Had I been present, I would have voted "yea" on that question.

The fourth vote was Motion to Concur in the Senate Amendment to H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act. Had I been present, I would have voted "yea" on that question.

The fifth vote was Motion to Concur in the Senate Amendment to H.R. 2751—FDA Food Safety Modernization Act. Had I been present, I would have voted "yea" on that question.

The sixth vote was S. 3243—Anti-Border Corruption Act of 2010. Had I been present, I would have voted "yea" on that question.

The seventh vote was Motion to Concur in the Senate Amendment to H.R. 3082—Making Further Continuing Appropriations for Fiscal Year 2011. Had I been present, I would have voted "yea" on that question.

The eighth vote was H.R. 6547—To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees. Had I been present, I would have voted "yea" on that question.

HOUR OF MEETING ON TOMORROW

Mr. MCGOVERN. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore (Mrs. HALVORSON). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF HON. DONNA F. EDWARDS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH REMAINDER OF SECOND SESSION OF 111TH CONGRESS

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

DECEMBER 21, 2010.

I hereby appoint the Honorable DONNA F. EDWARDS or, if she is not available to perform this duty, the Honorable GERALD E. CONNOLLY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Eleventh Congress.

NANCY PELOSI,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 21, 2010.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to Sec. 5605 of the Patient Protection and Affordable Care Act (P.L. 111–148), I am pleased to appoint Mr. Marcus Peacock of Washington, DC and Mr. Tomas J. Philipson of Chicago, IL to the Commission on Key National Indicators.

Both Mr. Peacock and Mr. Philipson have expressed interest in serving in this capacity and I am pleased to fulfill their requests.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
December 21, 2010.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to Section 235 of the Tribal Law and Order Act (P.L. 111–211, I am pleased to appoint Mr. Thomas Gede of San Francisco, California to the Indian Law and Order Commission.

Mr. Gede has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
December 21, 2010.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, (22 U.S.C. 7002) as amended, I am pleased to re-appoint Mr. Larry Wortzel to the United States-China Economic and Security Review Commission, effective January 1, 2011.

Mr. Wortzel has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

HONORING DOROTHY HARRY

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

Mr. THOMPSON of Pennsylvania. Madam Speaker, I rise today to recognize an incredible public servant who is retiring from my district congressional office in a few short weeks.

Mrs. Dorothy Harry has served the citizens of the Pennsylvania Fifth Congressional District for 14 years. Dorothy has been in the Titusville district office for more than a decade. The constituent calls have been greeted by her with a professional, courteous, and caring attitude.

Dorothy has never been late by even a minute, is thorough in her service, and leaves nothing undone. She joined the congressional staff with a lifetime of experience working in her family's insurance agency. Constituents of my congressional district that contact our office with insurance-related issues have had her voice of experience to guide them through many concerns.

Dorothy is the mother of two daughters, whom she is very proud of. Dorothy has always been quick to share that one of her daughters created a Christmas ornament that hung on the White House Christmas tree.

On December 31, Dorothy Harry will retire from public service as a member of the Pennsylvania Fifth Congressional District congressional staff at the age of a young 81 years old. The citizens have been well served by her and, I am sure, join me in saying, ''Job well done and thank you, Dorothy. You will be missed.''

□ 1950

CONGRATULATING THE PEARLAND OILERS FOR WINNING THE CLASS 5A DIVISION ONE FOOTBALL CHAMPIONSHIP

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

Mr. OLSON. Madam Speaker, I rise today to congratulate the Pearland Oilers for winning the Texas Class 5A Division One Football Championship last weekend. In front of 43,321 fans, the third largest in Texas history, the Oilers achieved a heart-stopping 28–24 victory, defeating the number one ranked team in the entire Nation, Euless Trinity.

The Oilers were referred to as the underdog, but an underdog doesn't use a play called ''the dead man'' to score a 54-yard touchdown. They demonstrated

their tenacity in the final seconds, when Dustin Garrison, who scored three touchdowns, broke up a fourth quarter pass, sealing the win for the Oilers.

Pearland has lived by a ''plus one'' outlook, always striving to make one more play and give one more degree of effort for the benefit of the team.

The Oilers finished the season with a perfect 16–0 record and brought home to the ''rig'' Pearland's first 5A championship. I congratulate them on their historic victory and well-deserved honor.

PASSING THE DOMESTIC TRAFFICKING VICTIMS ACT

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

Mr. POE of Texas. Madam Speaker, when a young girl is kidnapped in a foreign country and brought into the United States and used as a sex slave and law enforcement gets involved, she is treated as a victim of crime.

If a young girl who is an American citizen is forced into sex slavery as an 11- or 12-year-old and she is trafficked across the United States and law enforcement gets involved, unfortunately that girl is not treated as a victim, but a criminal, and criminal charges are filed on her for prostitution and she goes through the system. Many times, law enforcement does that just to protect that young child.

We need to change that, and today this House of Representatives passed legislation, the Domestic Trafficking Victims Act, which will treat those victims as victims and give resources to put them in places throughout the United States where we can protect them, rescue them, prosecute the trafficker, and prosecute the customer who buys that sex from that poor girl for money.

We need to treat these victims with the dignity that they deserve. This legislation is important. I am glad it passed the House.

And that's just the way it is.

HONORING THE HONORABLE JOHN B. SHADEGG

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

Mr. FLAKE. Madam Speaker, I rise today to honor a valued member of the Arizona delegation, JOHN SHADEGG.

JOHN SHADEGG is ending his service to this institution after 16 years. JOHN came here in 1994 and has served the State of Arizona extremely well during that time. He has promoted the principles of limited government, economic freedom and individual responsibility, and has stayed true to his principles and been a valued member of the Arizona delegation.

Arizona has a habit of producing great legislators, including Barry Goldwater, Mo Udall, Carl Hayden, and others; and JOHN now adds his name to that list of great Arizona legislators.

I just want to pay tribute to him and tell him how much the Arizona delegation and all of us will miss his steady, constant, principled leadership here in the House of Representatives.

Well done, JOHN. Well done, JOHN SHADEGG.

TRIBUTE TO THE LATE REPRESENTATIVE STEPHEN SOLARZ

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

Mr. ENGEL. Madam Speaker, I rise today to speak in honor of my friend and colleague, Stephen Solarz, who passed away last month.

When I first came to Congress in 1989, Congressman Solarz was already a respected Member of this body. He was a senior member of the Foreign Affairs Committee and an inspiration to me as I joined that committee. I enjoyed his advice and counsel. I remember he sat on the top rung of the committee, and that is where I am sitting today.

His speeches on the floor were the kind that made his colleagues stop what they were doing and listen. He was a foreign affairs guru to many of us, and the world will miss his knowledge and expertise.

I remember the dinners he and his wife, Nina, hosted at their home. Among the luminaries I met at these dinners was Abba Eban, the former foreign minister and U.N. ambassador of Israel.

Together, we shared the determination to protect America's relationship with Israel. We both understood that the U.S. must continue to engage on issues of importance around the world.

Like me, Congressman Solarz was a product of New York City's public schools. He emerged from humble beginnings to earn his law degree from Columbia, and later became one of the most influential Members of Congress. We each shared the passion for public service, and I know that I will truly miss his advice and his friendship. I consider myself lucky to have known him all these years.

My heart goes out to his wife, Nina, their children Randy and Lisa, and his mother, Ruth. The rest of the country, and certainly the U.S. House of Representatives, mourns with them.

SPECIAL ORDERS

The SPEAKER pro tempore. 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.)

FLAWED ELECTIONS AND POLITICAL IMPRISONMENT IN BELARUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Madam Speaker, I come down tonight to put into the RECORD the names of some freedom fighters who have been jailed, not only politicians, but also members of the news media, after the stolen elections in Minsk, Belarus, of two nights ago.

The opponents of Dictator Lukashenko were as follows. Their locations are unknown. Some have been jailed: Andrey Sannikaw, Yaraslaw Ramanchuk, Ryhor Kastusyow, Uladzimir Nyaklyayew, Ales Mikhalevich, Vital Rymashewski, Viktar Tsyareshchanka, Mikalay Statkevich and Dzmitry Uss.

Tens of thousands of Belarusians converged on Independence Square in the capital, heeding opposition leaders who called Sunday's election a farce and accused Lukashenko of keeping the post-Soviet country locked in a dictatorship. They gathered on the evening on the 19th and the morning of the 20th.

Also arrested were prominent journalists and civil society activists, folks who are friends of individuals I know: Anatol Lyabedska, leader of the United Civic Party; Mr. Sannikaw's wife, Iryna Khalip; Dzmitry Bandarenka, coordinator of an opposition group called Khartyya97; and Natallya Radzina, the editor of www.charter97.org.

The Organization For Security and Cooperation in Europe called the election ''flawed,'' and the United States of America and the European Union condemned the crackdown.

With me I have some photos of the evening of December 19 showing protestors. Of course, we see members of the Belarusian security forces, and in this photo here you actually see them wielding their clubs and beating one of the opposition members of the party. This is what we have in Europe. The last dictatorship in Europe is in a country called Belarus.

□ 2000

The United States has already—and I would lend to the demand of the release of all political prisoners, presidential candidates, and their official representatives who are being held in KGB detention centers in Minsk. Yes, in Belarus, they still call the secret police the KGB. The United States and this Member stand in solidarity with all opposition activists with those currently being held and those who are still in hospitals and those already who are in jail.

The new media ability of democratic movements in this country are great at especially being able to use the Twitter accounts, using Facebook, using

photos. A lot of these were conducted through new media. It underscores the brutality of the Belarusian leadership and the dictator, Lukashenko. I would hope that the international community, especially the European Union and the United States, would place the Belarusian Government on record that they should not hope to be able to join in the opportunities afforded to free and democratic countries when they treat their citizens who are only asking for the right to have their voice heard and the right to choose the representatives of the people.

END HUNGER NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Madam Speaker, as we near the end of 2010 and the 111th Congress, I want to take a few minutes to talk about an issue that is critically important to the health and the well-being of our country. It's also an issue that I care deeply about and it's an issue that's rarely discussed. And that issue, Madam Speaker, is hunger. I've said it over and over again, but it bears repeating. Hunger is a political condition. We know how to end hunger in America. We have the resources to do it. What we need is the political will to make it happen.

We've made some important progress over the last few years. We enacted historic improvements in the food stamp program, now called SNAP. WIC, the program that ensures that pregnant mothers and their newborns and infant children have access to nutritious food, has been fully funded. Food banks received the assistance they need to fill their shelves as they worked to put food in the hands of hungry families. We passed the Hunger-Free Communities Act, a law that provides localized grants to combat hunger around the country. The farm bill included historic improvements to antihunger programs—most importantly, indexing SNAP to inflation. The Recovery Act did even more by increasing emergency funds to SNAP beneficiaries, allowing them to buy more food at a time when their incomes were falling because of the economy. Finally, on December 13, President Obama signed the Healthy, Hunger-Free Kids Act into law. This will improve the quality of food served at schools to our Nation's children.

Madam Speaker, I have been honored to serve as the cochair of the House Hunger Caucus, and I want to thank my colleagues on that caucus, Democrat and Republican, for their commitment to this critical issue. I especially want to thank JO ANN EMERSON for her incredible work. But we have much more to do.

The USDA recently released their annual food insecurity, or hunger, statistics. The simple and unfortunate fact is this: Because of the economy, hunger is getting worse in America, not better. In 2009, the number of hungry Americans increased by 1 million over the previous year. According to the latest data, over 50 million Americans, including 17.2 million children, went hungry at some point in 2009. Madam Speaker, these are the highest numbers ever collected by USDA. And if that weren't bad enough, future SNAP funds—money provided under the Recovery Act—have been raided for other critical programs.

Madam Speaker, I love this institution and I am honored to serve as a Member of Congress, but it is a peculiar place. None of my colleagues, Democrats or Republicans, will tell you that they are pro-hunger. You'll never see a Member of Congress take a bottle out of the mouth of a hungry baby or swipe a can of beans that has been donated to a local food bank, but that's precisely what we will be doing if we choose to balance the budget on the backs of the poor and the hungry in this country.

I want to tackle our deficit as badly as anyone else. And in order to dig ourselves out of this fiscal hole, then all of us will need to sacrifice—not just the poor and not just the middle class. It is simply unacceptable to provide billions in tax relief for millionaires and billionaires while at the same time cutting programs that literally put food in the mouths of hungry people.

Ending hunger is not just the right thing to do—it's also in the best interest of our Nation's future. It's a national security issue. It's an education issue. It's a jobs issue. It's a health care issue. It's a productivity issue. It's a fiscal health issue.

We have a lot of work to do, Madam Speaker. The President said he's committed to ending childhood hunger by 2015, but we're not doing enough to reach that goal. Budgets will be tight for the foreseeable future, and it's going to be difficult to fund these vital programs. I've repeatedly called on the White House to convene a conference on hunger and nutrition. Let's develop a comprehensive plan to tackle this terrible problem.

But, Madam Speaker, this issue is not going away. We must not ignore the needs of the hungry in America. We must continue to work with antihunger groups, nutrition groups, religious groups, and the administration and others to finally end hunger in America.

We can do this. We can end hunger in America if we have the political will to do it. I urge my colleagues in the 112th Congress to join in this effort.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

(Mr. RANGEL 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 Illinois (Mr. JACKSON) is recognized for 5 minutes.

(Mr. JACKSON of Illinois 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 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.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

START TREATY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. GOHMERT. Well, down the hall we have the Senate as they have been taking up the START Treaty to help limit our defense of ourselves with a country that is not the country we're most concerned about. We seem to keep ignoring the fact that Iran continues to move forward developing nuclear weapons, and once they have them, then that is the game changer. Of course, we know that even in this hemisphere that there's the potential for rockets that could reach the United States. It's nothing to fear if we act appropriately and don't stick our head in the sand, as the START Treaty apparently attempts to do.

For example, we've got people in the Senate that do not understand that the President has the power to negotiate treaties. The Senate's role is in advising and consenting, but they don't have the power to amend the treaty. That has to be done between the other country and our President. So they can make suggestions, but that language is not binding unless the other country agrees to it.

So all this frivolous stuff, all this discussion, it is meaningless unless Russia were to adopt it. And when you look at the preamble to this START Treaty, despite what the President says and despite what people in the Senate are saying about it not affecting missile defense, the preamble says: Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms,

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

Now, maybe from the legal training and the judicial training it helps to read and understand that better, but the Russians make pretty clear they intend for this treaty to restrict a defense system. How do people down the hall not get that? It seems pretty clear. We have an obligation to support and defend this Constitution. We took an oath to do that.

□ 2010

We have never ratified a treaty in a lame duck session. Yet that is exactly what is being attempted down the hall right now. People who have been voted out of office because the majority in their States did not want them representing them anymore are down there cutting a deal with the Russians.

The election should have consequences, and people should have the decency to note that the majority of the people in their States have spoken, to go home and to not set a precedent of being the first lame duck session that people didn't want consenting to treaties providing consent to the treaty. It is so inappropriate what is going on down there, and then they stand there and tell us, Oh, no. This will have nothing to do with our missile defense shield.

We had a President back in the 1980s who, despite all the jokes, despite all the insults hurled at him, insisted that the thing that was maddest of all was the concept of mutually assured destruction, that insane was the idea of two countries saying, We'll both develop so much in the way of nuclear offensive capability that one won't attack the other because they will know the other will attack them, and they will both be wiped out.

So along came President Reagan, and he would not leave it alone.

We are going to defend ourselves. We took an oath to do as much, and if Russian, Iranian, Venezuelan, Cuban missiles—any kind of missiles—pose a threat to the United States, we have an obligation to defend ourselves.

But not according to this President.

According to this President, we are basically going to unilaterally mutually disarm, which is what happened with the Polish missile defense site. I understand it has now been revealed that the Russians had hopes, according to their early documentation, that eventually in the final document they would get the United States to agree to abandon their plans to put a missile defense shield in Poland. However, they didn't realize that they were negotiating with a new President of the United States, who promised hope and change and that the hope and change that he was bringing was a change unlike any negotiation in our past. We were going to unilaterally lay down our best leverage, not ask for anything in return and think we'd somehow be better off.

Well, that's not the way negotiations work in the world among individuals. Especially for those of us who are Christian, you treat individuals with respect. You follow the admonitions and the teachings of Jesus. Yet, as the national leader, we have a different obligation—not to go into people's bank accounts, into their homes, to take their money against their will, and give it to our favorite charities. We were told they were supposed to do it with their own money. We were not to abuse the process of this body to go legalize stealing people's money to give to our favorite charities. Let the people do that. It is one of the things that made us great. The charitable, big-hearted people in America have helped make America great.

But as people who are elected to come to Washington help lead this country, we have a different obligation. We are supposed to defend this Nation. We are supposed to provide for the common defense so that people who live in America can have a Merry Christmas, can have a Happy Hanukkah, can have the enjoyment and the freedom of religion. Operating under a Judeo-Christian system, as this was formed, all people could worship as they chose, and people could be defended as they did so; but to do that, you cannot unilaterally lay down the arms of this Nation.

We—I say ''we'' cumulatively. This President just gave away, early on last year, our best card. That's not really looking out for the American people. It's looking out for the Iranians; it's looking out for the Russians; it's looking out for the North Koreans, the Venezuelans, the Cubans, and those who might at some point like to see us gone and who have said as much, but it's not looking out for America.

Now, this administration has never been a fan of missile defense just as many Democrats were not of the plan President Reagan proposed; but because the Russians—the Soviets at that time—couldn't keep up and were already spending too much money, the Soviet Union fell. Clearly, this treaty links offensive reductions with missile defense.

So these guys down the hall may think they're doing a wonderful thing for America, but they're not. They may think, Gee, the President has said this about the treaty, so maybe it's true.

My friend Andy McCarthy, Andrew C. McCarthy, had a posting today, on December 21, with National Review Online, and it bears particularly on this point, so I will read from Andy McCarthy's article because it is so well written. These are Andrew McCarthy's words.

''Patting himself and his fellow Senate Republicans on the back for selling out on President Obama's new START Treaty, BOB CORKER absurdly claims that all is well because, despite treaty terms that patently disserve our national security, Senators have held debates, and because he and Senator RICHARD LUGAR have drafted a swell 'resolution of ratification' that purportedly addresses New START's serial flaws. Meantime, an unidentified JOHN MCCAIN admirer tells Rich the crafty 'ol Maverick deserves kudos for pressuring Obama into writing a letter talking up missile defense.''

Mr. MCCARTHY goes on.

''Whoopee! Don't you feel better about the GOP now? This is the most craven sort of nonsense.''

Mr. MCCARTHY goes on.

He writes, ''These Senators are trying to rationalize their inexcusable approval of a bad treaty they lack the backbone to vote down. Holding debates? It's commonplace to mock the U.N. General Assembly as a 'debating society' because the term connotes how inconsequential its exertions are.

''As for the vaunted resolution of ratification, I defer to John Bolton and John Yoo. Writing in The New York Times last month, they explained that the Obama administration hoped to sell its 'dangerous' bargain by diverting attention from the treaty, itself. Attention would instead be focused on the ratification resolution, which they predicted would be loaded with 'a package of paper promises'—variously called 'conditions,' 'understandings' and 'declarations'—that would purport to address concerns about missile defense, the condition of our nuclear arsenal, treaty limitations on conventional weapons, et cetera. Ambassador Bolton and Professor Yoo continued.''

They said, ''Senators cannot take these warranties seriously—they are not a part of the text of the treaty, itself.''

□ 2020

As Eugene Roskow, a former Under Secretary of State, put it, such reservations and understandings ''have the same legal effect as a letter from my mother.'' They are mere policy statements that attempt to influence future treaty interpretation. They do not have the force of law; they do not bind the President or future Congresses. The Constitution's supremacy clause makes the treaty's text the ''law of the land.' ''

''Instead, Bolton and Yoo asserted, 'To prevent New START from gravely impairing America's nuclear capacity, the Senate must ignore the resolution of ratification and demand changes to the treaty itself.' This is exactly the duty from which Senate Republicans are abdicating. The ratification resolution is nothing. The Presidential letter Senator McCain is said to have extracted is less than nothing: it lacks even the patina of a legislative act and is about as enforceable as a Presidential commitment to close Gitmo or televise the government's health care deliberations on C–SPAN.

''The administration is wrong on national security policy and politically

weakened by the midterm thrashing. The treaty is awful, which is why there are so many things to address in resolutions and letters. If you can't get Republican Senators to do the right thing under these conditions, then when?

''One more related point.'' Mr. McCarthy says, ''Based on my argument in yesterday's column that the Senate may not unilaterally rewrite treaties or enact amendments that alter treaty terms, a friend suggests there is daylight between my position and that of Bolton and Yoo. There is none. Yes, Bolton and Yoo recount Senate action that has resulted in treaties being altered, but here's what they say:

''''When it approved the Jay Treaty in the 1790s, which resolved outstanding differences with Britain, the Senate consented only on condition that President George Washington delete a specific provision on trade. Washington and Britain agreed to the amendment, and the treaty entered into force. In 1978, the Senate demanded changes to the text of the Panama Canal treaty as the price of its consent.'''

MCCARTHY goes on and says, ''This is no different from what I am saying. The Senate in these cases did not claim the power to change treaty terms or enact resolutions that pretended to fix deep problems without altering treaty terms. To the contrary, Senators told Presidents Washington and Carter that there would be no consent unless they went back to the countries in question and got the problematic terms changed.

''The Senate can pass amendments that amplify American understandings about a treaty; the Senate cannot unilaterally alter the core understandings in an agreement—that latter would render it no longer an agreement, and hence not a treaty. Thus, did Messrs. Bolton and Yoo conclude: 'While the Constitution gives the President the prime role in the treaty process, the Senate has the final say. If 34 Senators reject a treaty, no President can override them.'

''Voting to reject is the Senate's duty when confronted with a treaty that disserves the national interests. It is the current Senate's dereliction on New START—a fact no resolution or Presidential letter can paper over.''

It does no good to pass resolutions saying we think it means this or that when the words clearly enunciate the fact that missile defense is tied and part of this. It is affected.

If the Senate were to come back and say, all right, as they did in the 1790s, we will only consent if the President and Great Britain change these terms—in this case, if the President and Russia agree to change these terms—then we give our consent, have a condition precedent. But that's not what's going on here. We're writing letters. We are putting resolutions, this is what we think. That doesn't make any difference at all. People need to understand the role that they play in this government under our Constitution because, otherwise, they're doing a great deal of damage.

Now, it's just staggering. We have no business entering a treaty when we're still just leaving Iran hanging out there, trying to get the centrifuges going, developing nuclear weapons, cutting deals with other countries who also hate us. And we in America, what are we doing? We're paying billions of dollars to countries that would like to see us fall.

We're supporting a U.N. that thinks it's fine to treat women and children like property and allows the worst kinds of abuses to go on and, not only that, puts countries who have massive civil rights abuses in charge of their civil rights, the human rights. It's just incredible what's going on.

So I will continue in the next Congress to push my U.N. voting accountability bill. We mean no ill will to countries that hate our guts, but we don't have to pay them to hate us. So it just says any country that votes against our position in the U.N. more than half the time in 1 year will not get a dime of financial assistance of any kind from us the next year.

Those are the kinds of things you do when you're representing a country and your oath and your obligation require that you protect that country, not lay down your arms, not lay down your defenses and think that the wonderful good will of others will see how wonderful you are in unilaterally dropping your weapons. You don't do that. There are consequences.

Even going back to ancient Israel—and I realize there are people like Helen Thomas who don't realize there was an ancient Israel, but there was. And in fact, hundreds of years before there was Mohamed, there was an ancient Israel. But if you go to the days of Hezekiah, when the Babylonian leaders came over, and of course, we had the account in the Old Testament of Isaiah coming to Hezekiah. He knew what he had done. He said, What did you do? Oh, these wonderful leaders—this is, of course, Texas paraphrase—these wonderful leaders from Babylon came over. So we showed them all our treasure, and we showed them all of our defenses. In essence, Isaiah pointed out, you fool. Because you've done this, you will lose your country. You don't show your enemies your defenses without a severe cost. In the case of Israel, it cost them everything. You don't do that.

Individually, you can love and care and nurture. As a national part of a government, we have an oath and obligation to the people that live here to provide for the common defense, and that means you don't give away the defenses. You don't lay down your arms. You do what you can to protect America. In fact, I pointed out before, but I heard friends say today that, you know, people who consider themselves Christian, especially this time of year, should be in favor of all kinds of bills of Federal money being given to wonderful charitable causes. Well, individually, that's correct.

But as a Nation, we get a good indication from the story of Zachias, because after Zachias met Jesus, he was so overwhelmed with guilt for how he had abused his taxing authority, that he gave back the money, in fact, gave a four to one rebate to those from whom he took too much money.

□ 2030

Now that would be an interesting thing to see. And I had advocated for a payroll tax holiday 2 years ago. According to Moody's, it would have increased the 1-year GDP more than any other proposal, including our official Republican proposal. I'm not for it now. We've squandered way too much money. And we're running up debt like nobody would have ever dreamed, $3 trillion in 2 years? My word, my first year in 2005, I was hearing people across the aisle beating up on us because we had at one point $160 billion deficit, and that was outrageous. And my Democratic friends were right, we shouldn't have been running $100 billion, $200 billion deficit. Who would have ever dreamed that 5 short years later, they would have run up a $3 trillion deficit in 2 years, 10 times the deficit they were complaining about just 5 short years ago.

Well, those are some things that are great cause for concern. Did Republicans not learn anything from the election? Did people think that once the election was behind us, it was business as usual? Do Democratic and Republican Senators who are up for election in 2 years think that people across America are not watching? They're watching more today than they've ever watched in this Nation's history. They're paying attention. Who's doing what? And for those who are found to have had one big last zesty giveaway program after another, there will be a price to pay. And for those who rushed in and cut a deal with the Russians that the Russians didn't agree with; therefore, it is not binding. The only thing that's binding is what they consent to that the President has already agreed with Russia on, that will be the treaty, and it limits our missile defense. And it will be no consolation to anyone someday that—whoops, incoming—and we agree not to develop our missile defense with the Russians. Sorry, these missiles aren't coming from Russia, but the Russians got us to agree not to develop missile defense; therefore, we have no defense to what these enemies of America are sending. That's irresponsible. We should not be doing that. And I had hoped to end on a more positive note tonight.

Madam Speaker, if I could inquire how much time I have left.

The SPEAKER pro tempore. You have 34 minutes.

Mr. GOHMERT. I thank the Speaker.

I would like to finish by going through some of the Christmas proclamations by U.S. Presidents. I touched

on some of these last week but was wanting to read some different messages this week because I think they're very helpful to Americans who believe, unfortunately, as the President does, that we have never been a Christian Nation. I won't debate whether we are or not now because we may very well not be now. But fortunately, this country was established under Christian notions that allowed people the freedom to worship as they choose. Because heaven help us if we had a Constitution based on sharia law, then obviously there wouldn't be a Don't Ask, Don't Tell because that's a capital offense, to commit a homosexual offense under sharia law. So no need for Don't Ask, Don't Tell. No need for appeal under sharia law. Apparently it is a capital offense if you commit a homosexual act.

But also under sharia law, there's no room for Christians to worship any way they choose. The only way you can have all religions worship as they choose is to have a country based on Christian tenets. And that's what we started with. And we seem to be trying to get away from that, and it seems to be eroding people's freedoms of religion, particularly Christians.

So how ironic that we seem to be coming full circle, 360 degrees, so that we can eliminate the freedom to worship publicly in the public square, which are the very Christian tenets that allowed us to have and become the greatest country on Earth in Earth's history.

So these are words from Franklin Roosevelt in 1933. This was his first year as President. Franklin D. Roosevelt, December 24, Christmas Eve 1933, provided us these words. Roosevelt said, ''This year marks a greater national understanding of the significance in our modern lives of the teaching of Him whose birth we celebrate. To more and more of us, the words, 'Thou shalt love thy neighbor as thyself,' have taken on a meaning that is showing itself and proving itself in our purposes and daily lives. May the practice of that high ideal grow in us all in the year to come.'' Roosevelt finished by saying, ''I give you and send you one and all, old and young, a merry Christmas and a truly happy new year. And so for now and for always, God bless us, everyone.''

Moving to 1947, another one of the Christmas messages I did not mention last week. This is Harry Truman, December 24, 1947. And I won't read the entire message. But these are Harry Truman's words. He said, ''There can be little happiness for those who will keep another Christmas in poverty and exile, separation from their loved ones. As we prepare to celebrate our Christmas this year in a land of plenty, we would be heartless indeed if we were indifferent to the plight of less fortunate peoples overseas. We must not forget that our revolutionary fathers also knew a Christmas of suffering and desolation. Washington wrote from Valley Forge 2 days before Christmas in 1777, 'We have this day no less than 2,873 men in camp unfit for duty because they are barefooted and otherwise naked.'''

Truman goes on, ''We can be thankful that our people have risen today, as did our forefathers in Washington's time, to our obligation and our opportunity. At this point in the world's history, the words of St. Paul have greater significance than ever before. He said, 'And now abideth faith, hope, charity, these three. But the greatest of these three is charity.''' Truman said, ''We believe this. We accept it as a basic principle of our lives. The great heart of the American people has been moved to compassion by the needs of those in other lands who are cold and hungry. We have supplied a part of their needs, and we shall do more. In this, we are maintaining the American tradition. In extending aid to our less fortunate brothers, we are developing in their hearts the return of hope.

Because of our forts, the people of other lands see the advent of a new day in which they can lead lives free from the harrowing fear of starvation and want. With a return of hope to these peoples will come renewed faith, faith in the dignity of the individual and the brotherhood of man. The world grows old, but the spirit of Christmas is ever young. Happily for all mankind, the spirit of Christmas survives travail and suffering because it fills us with hope of better things to come.

Let us then put our trust in the unerring star which guided the wise men to the manger of Bethlehem. Let us hearken again to the angel choir, saying, 'Glory to God in the highest, and on Earth, peace, goodwill toward men.' With hope for the future and with faith in God, I wish all my countrymen a very merry Christmas.''

□ 2040

Christmas Eve, 1949, President Harry Truman gave us these words: the first Christmas had its beginning in the coming of a little child. It remains a child's day, a day of childhood love and of childhood memories. That feeling of love has clung to this day down all the centuries from the first Christmas. There is clustered around Christmas Day the feeling of warmth, of kindness, of innocence, of love, the love of little children, the love for them, the love that was in the heart of the little child whose birthday it is.

Through that child love there came to all mankind the love of a divine father and a blessed mother so that the love of the holy family could be shared by the whole human family. These are some of the thoughts that came to mind as I gave the signal to light our national Christmas tree in the south grounds of the White House.

President Truman goes on and says, sitting here in my own home, so like other homes all over America, I've been thinking about some families in other once-happy lands. We must not forget that there are thousands and thousands of families homeless, hopeless, destitute, and torn with the despair on this Christmas Eve. For them, as for the holy family, on the first Christmas, there's no room in the inn. We shall not solve a moral question by dodging it. We can scarcely hope to have a full Christmas if we turn a deaf ear to the suffering of even the least of Christ's little ones.

Since returning home, I've been reading again in our family Bible some of the passages which foretold this night. It was that grand old seer, Isaiah, who prophesied in the Old Testament the sublime event which found fulfillment almost 2,000 years ago.

Just as Isaiah foresaw the coming of Christ, so another battler for the Lord, St. Paul, summed up the law and the prophets in a glorification of love which he exalts even above both faith and hope.

Truman says, we miss the spirit of Christmas if we consider the incarnation as an indistinct and doubtful, far-off event unrelated to our present problems. We miss the purport of Christ's birth if we do not accept it as a living link which joins us together in spirit as children of the ever-living and true God. In love alone, the love of God and the love of man, will be found the solution of all the ills which afflict the world today.

Slowly, sometimes painfully, but always with increasing purpose, emerges the great message of Christianity. Only with wisdom comes joy, and with greatness comes love. In the spirit of the Christ child, as little children with joy in our hearts and peace in our souls, let us as a Nation, dedicate ourselves anew to the love of our fellow men. In such a dedication, we shall find the message of the child of Bethlehem the real meaning of Christmas. That's Harry Truman.

And I'll skip forward several years. Let me read this from 1976, from Gerald Ford: the message of Christmas has not changed over the course of 20 centuries. Peace on Earth, goodwill towards men, that message is as inspiring today as it was when it was first proclaimed to the shepherds near Bethlehem. It was first proclaimed, as we all know, then.

In 1976 America has been blessed with peace and significant restoration of domestic harmony. But true peace is more than an absence of battle. It is also the absence of prejudice and the triumph of understanding. Brotherhood among all peoples must be the solid cornerstone of lasting peace. It has been a sustaining force for our Nation, and it remains a guiding light for our future.

The celebration of the birth of Jesus is observed on every continent. The customs and traditions are not always the same, but feelings that are generated between friends and family members are equally strong and equally warm.

God bless you.

This is from President George H.W. Bush's message December 8, 1992: during the Christmas season, millions of people around the world gather with family and friends to recall the events that took place in Bethlehem almost 2000 years ago. As we celebrate the birth of Jesus Christ, whose life offers us a model of dignity, compassion and justice, we renew our commitment to peace and understanding throughout the world. Through his words and example, Christ made clear the redemptive value of giving of one's self for others. And his life proved that love and sacrifice can make a profound difference in the world.

Over the years, many Americans have made sacrifices in order to promote freedom and human rights. Around the globe the heroic actions of our veterans, the lifesaving work of scientists and physicians and generosity of countless individuals who voluntarily give of their time, talents and energy to help others all have enriched humankind and confirmed the importance of our Judeo-Christian heritage in shaping our government and values.

Moving on to 2002, December, George W. Bush's message. He said, throughout the Christmas season, we recall that God's love is found in humble places, and God's peace is offered to us all. For nearly 80 years, in times of calm and in times of challenge, Americans have gathered for this ceremony.

The simple story we remember during this season speaks to every generation. It is the story of a quiet birth in a little town on the margins of an indifferent empire. Yet that single event set the direction of history and still changes millions of lives.

For over two millennia, Christmas has carried the message that God is with us; and because He's with us, we can always live in hope.

Our entire Nation is always thinking, at this time of the year, of the men and women in the military, many of whom will spend this Christmas at posts far from home. They stand between Americans and grave danger. They serve in the cause of peace and freedom. They wear the uniform proudly, and we are proud of them.

That's George W. Bush, December 2002, Presidential Christmas message.

And I might interject at this point, we know from our Declaration of Independence, we are endowed by our Creator with certain unalienable rights, and among them is the right to life, liberty and the pursuit of happiness. Then why, some would ask, if we're endowed, if these are given as an inheritance, why then do people all over the world not have life and liberty and the opportunity to pursue happiness like we do in this country?

It is an endowment. The Founders had that right. But as with any inheritance that's left to heirs, if the heirs are not willing to protect their inheritance, if they're not willing to fight the forces of evil, forces of greed, forces of lust and power lust, they will lose their inheritance to other evil people who will be glad to take it from them.

□ 2050

Thus it comes to us, the sacred, really sacred obligation that we owe this Nation to ensure our common defense so that the inheritance of all those alive today will be passed on to future generations. We don't have these freedoms because we earned them. We were not born to freedom because we deserved it. We were born to freedom, others came to this Nation, to freedom, because of the sacrifice of others who went before us. And so we enjoy the freedoms and inheritance, the endowment we have today.

We can fritter away this endowment or we can protect it. We can avoid unilaterally disarming and protect the American people in this blessed country so that future generations can enjoy that same inheritance.

Another message, Christmas message from George W. Bush was this: ''During Christmas, we gather with family and friends to celebrate the birth of our Savior, Jesus Christ. As God's only Son, Jesus came to Earth and gave His life so that we may live. His actions and His words remind us that service to others is central to our lives and that sacrifice and unconditional love must guide us and inspire us to lead lives of compassion, mercy, and justice. The true spirit of Christmas reflects a dedication to helping those in need, to giving hope to those in despair, and to spreading peace and understanding throughout the Earth.

''As we share love and enjoy the traditions of this holiday, we are also grateful for the men and women of our Armed Forces, who are working to defend freedom, secure our homeland, and advance peace and safety around the world. This Christmas, may we give thanks for the blessings God has granted to our Nation.''

We took an oath to provide the protection for this Constitution, in essence this country, against all enemies, foreign and domestic. We did not take an oath to legalize theft from people who earn money to give to our favorite and many extremely deserving charitable causes. That's not what we were supposed to do. We need to defend this Nation so that others can be as philanthropic, as charitable as only Americans seem to reach the full height of doing.

In this Christmas season, we want all people of all religions to be able to worship as they choose freely so long as they do not threaten the freedoms of this country. We have an obligation, we took an oath, an oath before God below those words, ''In God We Trust.'' Well, the people have trusted us not to shirk our duties to defend this Nation. And so that means individually we should be charitable, individually we should serve and help others, but as a Congress and as a Nation we should provide incentives for people to reach their God-given potential.

We shouldn't be paying people for every child they can possibly have out of wedlock so that we encourage nearly 45 years of people having babies out of wedlock. No one cares for deadbeat dads. It's despicable to have fathered a child and to not help in any way with the upbringing and the sustenance of the child that a father helped bring in the world. And yet the answer lies not in providing a financial incentive to lure young single women into a rut from which they cannot extricate themselves. It's immoral to lure young women into ruts with no hope of getting out.

And as a judge, I was prompted to leave the bench when I first started about thinking about running for Congress as I saw these young women who came before me for welfare fraud or for selling drugs, and their stories seemed so hopeless. But they were told if you just have a child, forget high school, you can start getting a check. And there are young women around the country who are going into this Christmas week feeling they have no hope. I saw them in my courtroom. And this Congress is to blame, the ones that preceded us are to blame. You meant well. Congress meant well. But instead of helping, we hurt future generations. Not just one, future generations.

It's time we undid that. It's time that in a spirit of Christmas we don't legalize taking somebody's money that doesn't want us to have it and giving to our favorite charity. What we legalize is incentives for people to reach their full, God-given potential, regardless of their race, creed, color, national origin, gender. We make sure that they have that opportunity. That's our obligation.

And as we go and approach Christmas, I close with the words of Benjamin Franklin in 1787. Suffering from gout, 80 years old, the Constitutional Convention was falling apart. There seemed no hope. Eighty-year-old Franklin, brilliant as ever, witty and clever as ever, but who had to have help getting into Independence Hall, was recognized by the president of the Constitutional Convention, President George Washington.

And he pointed out we have been going for nearly 5 weeks, we have more noes than ayes on virtually every vote. Franklin said, ''How does it happen, sir, that we have not thought of once applying to the father of lights to illuminate our understanding? In the beginning contests with Great Britain, when we were sensible of danger, we had daily prayer in this room. Our prayers, sir, were heard, and they were graciously answered.'' That's not a deist, by the way.

He went on and eventually said, ''If a sparrow cannot fall to the ground without His notice, is it possible that an empire could rise without His aid? We have been assured, sir, in the sacred writing that unless the Lord build the house, they labor in vain that build it.'' Franklin went on and said, ''Firmly believe this.'' He said, ''I also firmly

believe without His concurring aid, we shall succeed in our little political building no better than the builders of Babel. We will be confounded by local partial interests, and we ourselves shall become a byword down through the ages.''

He eventually moved that henceforth we begin each day with prayer in Congress. It was seconded by Mr. Sherman, unanimously adopted. And then Mr. Randolph added not only that, since this was the end of June, he added a provision that everyone in Congress be required to go hear a Christian evangelist on July 4th before they return and begin again in the constitutional making.

And one of the diaries reported that after that, and after they heard that Christian message, after entering into joint prayer as a Congress, led by a local minister, there was a new atmosphere, there was a new spirit, and as a result we got the Constitution that is the greatest founding document of any nation in the history of the world. Now, that is something that we have to thank God for.

So at this time of blessings, and thanks giving, and this Christmas season, Madam Speaker, I yield back.

□ 2100

PERSONAL OBSERVATIONS ABOUT OUR DEMOCRACY AND OUR COUNTRY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. EDWARDS) is recognized for 30 minutes as the designee of the majority leader.

Mr. EDWARDS of Texas. Madam Speaker, as I leave Congress after 20 years, I would just like to share a few personal observations about our democracy and our country.

First and foremost, I believe we still live in the greatest country in the world. We are a blessed Nation, and we have more freedoms and opportunities than most citizens of the world could ever imagine. The proof that all is not wrong in our country today is that our immigration challenge is not that people are trying to leave our country; it is that millions of people from all parts of the globe would do almost anything, including risking their lives, to come here.

Several years ago, I learned a lot about our country from a D.C. taxicab driver. In hearing his accented English late one night when I arrived at National Airport, I asked him when he first came to our country. He answered 20 years earlier. Then I asked him if he had a family, and he answered, yes, a wife, two sons and a daughter. I asked if they had come with him when he came here 20 years ago, and he said, no, they came 3 years earlier. He went on to explain. Imagine this:

For 17 years he came to our country for 10 months out of every year, working two jobs at a time, washing dishes and any other minimum-wage job he could find here. He said he would save a little bit every year for his family nest egg and enough to return to his home to be with his family for 2 months each year.

As the father of two young sons, I was floored, and said he could put millions of dollars in the back seat of that taxicab that night for me if I only would agree to be away from my wife and sons as much as he had been from his family, and it would not even be a temptation.

I asked him why he did it, and I will never forget his answer. He said, I had a hope and a dream that some day I might be able to raise my three children in a country where they could have just two things—religious freedom and the opportunity to be whatever they wanted to be.

Now, he said, my family is together here. I am a U.S. citizen. My sons are studying to become engineers and my daughter will be a doctor.

This hardworking immigrant taught me a lot that night in his taxicab about the American Dream and what is so special about our country.

I realize our democracy is not perfect, and I am well aware of the imperfections of those of us who serve in it. But sometimes in the midst of our daily lives, we Americans need to stop and think about our many blessings as citizens of this great country. In a time of widespread cynicism toward government, I believe it is also worthwhile to ask ourselves what is the role of our Federal Government. There can be no better foundation for that answer than the Preamble to our Constitution:

''We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America.''

As with any statement of principle, our Founding Fathers left honest room for disagreement on the specifics of interpretation, but I would like to make several personal observations.

The preamble first begins with the words ''We the people.'' Those words make it clear that the cornerstone of our democracy is the people—not politicians, not Presidents, not any institution or special interest.

I believe one of the frustrations toward government today is that ''we the people'' don't feel government is listening to or working for us. There is a sense that the voice of the special interest is too often drowning out the voice of everyday citizens.

There is much truth in that observation, and I have concerns that the recent Supreme Court decision to let corporations and unions spend unlimited, unaccountable, untraceable amounts of money in campaigns will make the voice of everyday citizens even less audible. If outright bans don't meet the limits of a flawed judicial decision, that at the very least transparency must be required. ''We the people'' have a fundamental right to know who is spending millions of dollars to influence who is elected to our Congress.

''In order to form a more perfect union.'' I believe the greatness and goodness of our country is that ours is a history of each generation trying to reach ever-closer toward the ideals of liberty and justice for all. Rights that were once just the domain of white male landowners have slowly but surely been expanded to more and more Americans. The barriers of race, religion, gender and sexual preferences have with great pain and sacrifice slowly been knocked down. This road of progress has been paved with detours and roadblocks along the way, but it has inevitably been a road of progress toward a more perfect Union.

I am proud that in 2008 our Nation broke the racial barrier for the highest office in our land. But I temper that pride in 2010 with the disappointment that the issue of race is still an issue for anyone over a century-and-a-half after the signing of the Emancipation Proclamation. Let us not, however, let the imperfections of our Union blind us from seeing our blessings and our progress toward becoming a more perfect Union.

''Establish justice.'' In a society that is often critical of our legal system, I am grateful that we live in a country that presumes innocence until guilt is proven and that offers the fundamental right to a jury trial. While frivolous lawsuits do occur and should be stopped whenever possible, reason should dictate that we not limit the constitutional right of the citizen to a jury trial and that that right should not be based on one's wealth. It is not fair to begin the work of Congress in this House on this floor with the words of our Pledge, ''with liberty and justice for all,'' and then proceed on the House floor moments later to cut legal aid for low-income citizens.

''Insure domestic tranquility and provide for the common defense.'' In a world where evil and greed will always exist, defending our citizens' lives and property must always be a top responsibility of government. That is why I am so grateful for the noble calling of those who choose to serve our Nation in law enforcement and in military uniform. Those who defend us from criminals here at home or from threats from abroad have chosen a noble calling in life and should always be treated with our words and our deeds as the true heroes they are.

The record will show that in the past 4 years under the Democratic leadership of Speaker PELOSI and with the leadership of Chairman OBEY and Chairman FILNER and others, this Congress has made unprecedented strides in our investments in better health care and benefits for our veterans. We did so while recognizing that we can

never fully repay our debt of gratitude that we owe those who have served our Nation in uniform and their families.

''Promote the general welfare.'' On this principle there can be much honest disagreement, and I respect that fact. Perhaps what is most important in this idea to me is that it underscores that we Americans are not just individuals separate from one another, but that our Founding Fathers recognized the welfare of one is not distinct from the welfare of all of us. ''We the people'' truly have common bonds as American citizens.

My personal view is that government cannot ensure success for individuals. That requires hard work and solid values, and those come from our families and our faith, not from the government. Yet I do believe that the general welfare of ''we the people'' is enhanced if government and private enterprise work together to give those willing to work hard and play by the rules a fair opportunity for just a few things in life for themselves and their families.

□ 2110

A good job, a decent home and a safe neighborhood, affordable health care, a quality education for their children, and retirement security. Government cannot guarantee these outcomes, but it should work to provide a fair opportunity to all willing and able to work hard for them. Government should provide a helping hand to those who are willing to help themselves.

The general welfare, to me, really means opportunity. And it is my belief that the ultimate goal of government should be to provide every child in America—every child—a fair opportunity to reach his or her highest God-given potential. That is what Head Start, public school funding, college student financial aid, and many other Federal programs are all about. These programs are helping hands, not handouts. They're investments in opportunity for our citizens and our country's future.

For those who cannot help themselves because of their physical or mental health care problems, we the people are a compassionate people, and the general welfare, along with our basic sense of decency and faith, dictate that we help those who cannot help themselves. That is a proper role of the Federal Government.

For those who believe there's virtually no role for the Federal Government much beyond national defense, I would point out that our Founding Fathers realized over two centuries ago that the failure of the Articles of Confederation was that they committed ourselves to being a country of separate States, more than one union. That's why our Founding Fathers committed to adopting a new Constitution with stronger powers vested in a Federal Government. Our Founding Fathers so long ago understood that the general welfare of our citizens could not be effectively served by simply that loose association of States. There are some today who envision turning the clock back to a system that didn't work over two centuries ago and certainly would not work today in today's more complex society and economy.

Despite its imperfections, I believe the Federal Government plays a vital role in providing for the general welfare of we the people. At the same time, I would say that the general welfare of our children and grandchildren demands that the Federal Government do a better job of living within its means.

While deficits are to be expected in times of war and recession, long-term deficits must be brought down. This should be one of the highest national priorities in the years to come. After having turned serious deficits from the early 1990s into the surpluses of the late 1990s, Congress, in my opinion, made an enormous mistake in letting expire the pay-as-you-go rules, passing massive unpaid-for tax cuts in 2001 and 2003, and in expanding Medicare prescription drug programs in 2003, with none of these being paid for. This is not rocket science. It is simple math. Massive tax cuts passed in 1981, in the face of a major defense buildup, led to historic, unprecedented deficits. Two decades later, the same mistake was repeated when Congress passed massive tax cuts, the first ever of their kind during a time of war. Those of us who opposed those tax cuts predicted they would lead to deficits. Those who supported the tax cuts, if you'll check the record, said they would not lead to deficits. We were right, unfortunately, and they were wrong.

It is my hope that the free lunch philosophy of no-pain balanced budgets has been discredited enough by now so the next Congress can realistically make the tough choices needed to get our fiscal house back in order. Republicans in Congress need to stop peddling the disproven that tax cuts pay for themselves. They do not. Democrats in Congress need to understand that spending must be cut, that no cuts will be done without pain, but that ultimately uncontrolled deficits will harm low- and middle-income families even more through slower economic growth and the crowding out of education and health programs by increasing interest payments on the national debt.

Most importantly, the partisan finger-pointing should stop and the bipartisan work should begin. It should begin to ensure the general welfare of we the people is served by a physically sustainable Federal debt level. The choices will be difficult, but if they are made on a bipartisan basis, the people of the country will understand the necessity of those tough choices, just as they did in 1983 when President Reagan and Speaker Tip O'Neill worked together to save Social Security.

''Secure the blessings of liberty to ourselves and our posterity.'' Our forefathers understood that freedom is God-given and should be protected as the divine gift it truly is. Our troops have, for over two centuries, protected our freedoms from threats from abroad. Here at home we must continue to be faithful stewards of the freedoms of religion, speech, press, and association.

It is no coincidence that the first words of the Bill of Rights are dedicated to the principle of religious liberty built upon the foundation of what Thomas Jefferson called the sacred wall of separation between church and State. Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. Religious freedom is the first freedom. It is the freedom upon which all other freedoms are built. Mr. Madison and Mr. Jefferson understood that religion should be based on a pedestal high above the reach of politicians.

I believe America's model of religious liberty is perhaps the greatest contribution to the world from our experiment in democracy. It has been built upon the bedrock of church-State separation. And for those who misunderstand that principle, church-State separation does not mean keeping people of faith out of government. It does mean keeping government out of our faith. All of human history has proven that if politicians are allowed to regulate and get involved in religion, they cannot withstand the siren songs of using religion as a means to their own political ends and of stepping on the rights of religious minorities by trying to ingratiate themselves with the religious majority.

If I could offer only one piece of advice to the press, the public, and to future Members who will serve in Congress, it would be to be aware of those who, whether motivated by good faith or by political gain, would try to help religion by chiseling away at the wall of separation between church and State. God doesn't need their help or government's help. If He chose to give each of us the right to believe or not to believe, it would be sacrilegious for politicians to limit that divine right.

Government can make a lot of mistakes that can be corrected, but if the Pandora's box of intermingling government and religion is ever open, it will unleash divisions among us that we cannot even imagine. Human history has proven that lesson over and over again. Mr. Madison and Mr. Jefferson got it right in the first 16 words of the Bill of Rights, and it would be wrong to undo those words or the principle they represent.

In the short run, I have some serious concerns about our democracy. Partisanship is too prevalent, especially since solving the major challenges facing our country—the deficit, health care, energy, immigration reform, and competing in the world economy—will require bipartisanship to not only pass effective legislation but to secure public support for those laws after their passage.

Sound-bite politics of television and radio interviews and talk shows and

campaign ads make it difficult to develop responsible solutions to complex problems. Thirty-second campaign TV ads are seldom a template for responsible problem-solving. The stovepiping of news sources, where citizens are hearing the news they want to hear, reinforcing their already held views, is digging deeper the lines of political division in our country. The demonizing of those who think differently is creating coarseness in our political discourse that neither serves our democracy nor sets a positive example for our children. If adults don't treat each other with respect, can we expect any different from our children?

□ 2120

The loss of centrists—Republicans and Democrats alike—in Congress will make it more difficult in the years ahead to find the common ground of compromise. A parliamentary government can work with one party on one end of the political spectrum and another on the other end with few in between, because the party in the majority in that type of government has the power to implement its programs. However, in our American democracy, built upon the principle of checks and balances, bipartisanship is needed to pass laws on major issues and then to earn acceptance of those laws from the public.

The financial problems of major regional newspapers have reduced the impact of one of the key checks and balances of our democracy—a vigorous and free press.

The financial power of corporations, unions and special interests, especially under the Citizens United Supreme Court case, to spend unlimited, nontransparent millions in congressional races without any accountability to the public who funds those races could seriously undermine the integrity of not just campaigns but of voting decisions made by Members of Congress.

Despite all of these challenges in the short term, I am confident of America's long-term future. Our people and our democracy are resilient. When Americans face hardship, we find a way to endure and overcome those hardships. They always have. We always have and always will as a people. When our democracy gets off center, we the people find a way to bring it back in line.

In every generation, including that of our Founding Fathers, there have been predictors of doom. In every generation, they have been wrong. Americans have faced a revolutionary war, a civil war, two world wars, and a great depression. In each case, we the people found a way to meet those challenges and overcome them.

While I have met some famous people over the past 20 years of my public service, I have seen the soul and spirit of America through the lives of everyday citizens. It is they who give me faith in our future. It is the teacher who volunteers to help students after school; the military widow who asks how she can help other grieving widows; the soldier who misses the births of his two children while he is serving his country overseas; the veteran who continues giving back to country long after his or her service is completed; and the hardworking small business people—farmers and workers—who work hard every day just to provide a better life and hope for their families.

I will never ever forget Erin Buenger—a beautiful, little, red-headed girl from Bryan, Texas—in my district—who came to Washington to lobby me for better health care research for rare children's diseases. For 7 years, Erin fought bravely against a rare cancer, neuroblastoma. Yet you would never have known she had had a bad day in her life because she was so full of life. Erin won my heart. She won my heart before she died at the age of 12, but her spirit will always live on to inspire me and those blessed to know her—to inspire us to do better, to be better. As long as we have Americans with the courage, values, and heart of Erin Buenger, who personified the American spirit, our Nation's future will be bright.

I would save the last words I will speak from this House Chamber for my family. Throughout my years in Congress, it was my wife, Lea Ann, and our two sons, J.T. and Garrison, who always kept me grounded. Every day of public service has truly been an honor, and I am grateful to the people of Central Texas for that privilege, but throughout the years, it was the love from my family and my love for my family that always meant the most to me. It was their love that reminded me what life and public service should be about.

I can never say enough about the personal sacrifices and responsibilities that Lea Ann took on to make my work possible. She has been my personal hero throughout these years, and I love her with all my heart for who she is and what she has done as a wife, as a mother, as a USO cochair, and as a Boy Scout leader.

To our sons J.T. and Garrison, it is my hope that somehow I have shown them that trying to make a positive difference for others is part of our mission here on Earth, and that that mission begins with loving our families.

Serving the American family has been the privilege of my life, but the joy of my life has always been my family.

We the people are fortunate to live in the greatest Nation in the world. God has truly blessed us, and now it is up to us to be good stewards of those blessings.

Thank you.

THE DREAM ACT AND ITS WAY FORWARD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Colorado (Mr. POLIS) is recognized for 30 minutes as the designee of the Majority Leader.

Mr. POLIS. Madam Speaker, I rise today to talk about the young people whose futures are impacted by our Congress' failure to find a path forward with regard to the DREAM Act or to find some way of determining what they should do, what they should be—these Stateless individuals, these young people, these children of our Nation.

The DREAM Act is truly one of the most, if not the most, important pieces of legislation that we have discussed on the floor of the House. Certainly, for the individuals involved, it means everything—everything—to hundreds of thousands of de facto Americans. To them and to all of us, it is extremely important. We have a choice between forcing a brain drain from our country or retaining the best and brightest to contribute to our economy and make our economy stronger and our Nation more prosperous.

I will discuss the moral, economic, educational, and security reasons why we should pass the DREAM Act. As this Congress failed to act on the DREAM Act, it remains an issue that we simply must address with regard to these young people, and it cannot be ignored. I also want to pose two questions.

One is: What would we ask of these young people? What do we want them to do? The second: What action would they undertake that is best for us and our country? What should we be asking them to do for us?

First of all, what we are talking about here are young people who grew up in this country, who were brought here when they were 2 years old, when they were 6 years old by parents who were illegal immigrants but who made no choice to ever violate our laws and grew up in this country as any other American does. The young people we are talking about are the children that any parent would be proud of—our sons and daughters, our classmates in our schools, our brothers and sisters of native-born Americans, kids who stayed in school and graduated, who work hard, who stay out of trouble, who serve in our military. They are the children of our great Nation.

We in our country should be proud—not proud of the broken and dysfunctional immigration system and lack of enforcement that put them in this situation; not proud of their parents' violations of our immigration laws, no matter how out of touch with reality those laws may be; certainly not proud of the indignities, discrimination, and fear that these young Americans have faced at every turn—but proud, proud of how these young Americans have overcome adversity and have demonstrated American exceptionalism, their pluck, their ingenuity, their ambition, their drive, and their creativity in pursuit of, as our Declaration of Independence puts it, life, liberty and the pursuit of

happiness. These young people embody the very best of our American values, and we should be proud to call them our countrymen.

I was touched, Madam Speaker, by the great risks that many of these young people took in putting themselves out there—allowing their names to appear in newspapers and their faces to appear on television—in putting their futures at risk simply to tell us the story that they know we would understand: that they are here and that they are American.

This is a great Nation, and we will be stronger still, greater still with the full participation of these young de facto Americans, each with the opportunity to go as far in life as their ambitions and abilities will take them. I want to talk about a few of these young people today.

Prior to our successful passage of the DREAM Act out of the House—unfortunately, it later died in the Senate—I talked on the phone to several of the young people in my district, my constituents, who would be directly impacted.

□ 2130

This debate is really about young women like Zendy. Zendy was brought to the United States when she was 4 years old from Zacatecas, Mexico. Zendy grew up in the United States and didn't even know that her parents had taken her illegally until she was 9 years old when one of her friends was flying to Montana and their family invited her but her parents told her she couldn't go because she didn't have papers. Zendy went to prom senior year like other high schoolers. It was really cool, she said. Finally, my mom let me and I wanted to look pretty for prom. I didn't have a date so me and my friends went together.

Now, Zendy has a passion for law enforcement. As she puts it, quote, I want to help stop the drug cartels. Zendy, who is currently enrolled at the Community College of Denver, wants to be a DEA agent. Our decision in Congress will determine if she engages in law enforcement to protect our laws or is pursued by law enforcement in violation of our laws. We will create either an agent of public safety, or we will criminalize a young woman because of actions that were not her own.

The question that will face us and the next Congress: Will we allow Zendy to become someone who protects us or someone who we must spend money criminalizing and hunting? Which benefits America more? Zendy said, I want to be in law enforcement in doing what I want to do in my life. Madam Speaker, we want Zendy as an American.

This debate is about Claudia. Claudia's 21 years old and is a third-year college student at the University of New Mexico. She attends college in New Mexico because, unfortunately and shamefully, my own State of Colorado doesn't offer in-State tuition to residents who have lived there 10 years, 15 years. Claudia was brought to the United States when she was 7 years old. In high school, she was vice president of the Latino Youth Leadership Club and engaged in hundreds of hours of community service tutoring younger kids. Claudia enjoyed tutoring younger children and wants to be an early childhood education teacher, teaching preschool and kindergarten.

She has no immediate family in Guadalajara, Mexico, where her family took her from. She was brought up here and she doesn't have any memories of her old country. She's a role model for her 11-year-old sister. She said, It's sad that we're looked upon differently than other people, even though we've been here long enough to know everything. This law would help me be near my family. Claudia, when this Congress manages to pass the DREAM Act and immigration reform, would likely transfer to the University of Colorado closer to her family. It poses a question for us. Put yourself in that situation: What would we do? What's the right thing to do? Madam Speaker, we want Claudia as an American.

This debate is about Luis. Luis was brought to the United States by his parents when he was 10 years old in 2001. I talked to him on the phone last week. He grew up as American as anybody else. He was active in the French club and was on the soccer team at Skyline High School. He was accepted into the University of Northern Colorado but couldn't attend because of his lack of status. He wants to be a psychiatrist, but he's not in school because of immigration status. He was accepted to the University of Colorado, assigned to a dorm, went to classes for the first day, went up there and registered, but wasn't able to attend because of out-of-state tuition. Luis said, There's never a difference between me and my peers.

Luis also seems to have a potential career ahead of him perhaps as a pundit or in public service or even perhaps as a, God forbid, lobbyist because the way he put it to me is in language that would translate to Members of this Chamber. Luis said, with understanding far beyond the average for his age of 19, Many of the Republicans are looking into the money side of things. What I would tell them is that they should look at us not as a burden but as someone who would brighten their future. We are here and we're not going to go anywhere, and we're going to make this country better, create jobs, and make the economy better.

And I would ask any of my colleagues, particularly those in this Chamber or the other Chamber that have not yet been supporters of the DREAM Act, why are they against making our country better, creating jobs, and making the economy better? Or is there somehow a disconnect and they don't believe that Luis as a psychologist versus Luis as a worker in the underground economy would make our economy better, create jobs and prosperity for America? Luis said, America is the place where you can make things happen. Madam Speaker, we want Luis in America.

This debate is about Angel. Angel is a senior in high school, currently in my district in Colorado. His parents brought him from Zacatecas, Mexico, when he was 6 years old. In high school, he's very active and serves on the student council and the theater club. He won an essay contest a couple of years ago and got a trip to New York City where he told me how excited he was to meet members of the cast of ''Wicked.'' The 4 days he spent in New York City helped show Angel a key interest in the arts, and he wants to go to college for the performing arts. He just turned 19 years old and serves as a role model for his brother, who is in the same situation and is 14 years old and was brought here when he was 1 year old. Angel has no memories of any other countries, and he's never been to Mexico. Madam Speaker, we want Angel as an American.

This debate is about Michelle, a constituent from my district. I talked to her on the phone last week. Michelle was brought to the United States when she was 7 years old. Her little sister had a skin disease caused by pollution in Mexico City. She had a good life in Mexico City. Her dad was a lawyer. Her mom stayed at home. Now, both her parents clean homes in the United States.

Michelle is now in her first semester at Community College of Denver. She went to Fairview High School and was on the girls soccer team as a forward. She also won an award from the Boulder Youth Advisory Board, or YOAB, for greatest helper in the Boulder community because of her community service. She credited one of her teachers, Mrs. Carpenter, for helping to get her involved with community service, including the Rotary Club. Michelle has never been back to Mexico City. She's now 18 years old. She found out she was undocumented in 8th grade when she wanted to go on a school trip to Washington, D.C., our Nation's capital.

Michelle wants to transfer to study marine biology. She said, I would love to study marine biology, but I'm not sure they will let me because of my situation. She continued on the phone with me last week, My life is here now. It's not our decision to come here, but we came and we're studying and we're trying to make our life better than our parents and to make a good life for ourselves. They are stopping the dreams for students who don't have papers. I don't know if they want us to work in McDonald's or Wendy's. I don't know what they want us to do. They aren't letting us reach our goals or our dreams.

Madam Speaker, I ask all of us, What do we want Michelle to do? I believe, Madam Speaker, that we want Michelle as an American.

Constituent service is one of the most fulfilling components of our job on both sides of the aisle. An elected office, it's fundamentally a helping occupation. We enjoy helping people. We might have different ideas about how to do it, but that's why we're here. There is little satisfaction as good as helping a veteran who served our country get the benefits that he's entitled to but had been wrongfully turned down by a faceless bureaucracy. We're fundamentally in this business to help people. When a constituent can stay in their home because of our work and finding an alternative to foreclosure, what thrill can top that for a Member of this body?

And then, Madam Speaker, there's times when we're not able to help. Chih Tsung Kao is 24 years old. His story started when he was 4. He entered the States with his mother with a visitor's visa, which was later changed to a student visa. I talked to him on the phone last week. He said, I was basically dropped off at my grandmother's in Boulder, Colorado, as my mother left back for Taiwan.

During his stay with his paternal grandparents, his student visa expired due to their negligence. They forgot to renew it. Chih was 17 years old before he learned that his visa had expired. Since then he's looked for different legal routes to obtain some sort of legal status, all leading to that end. I was impotent in my office, as were our Senators, to help young Chih find any route that would allow him to contribute to this country. Chih is a college graduate with a civil engineering degree from the Colorado School of Mines, our premier engineering university in Golden, Colorado.

And now, Madam Speaker, Chih is serving in the Taiwanese military due to their conscription policy, and he's trying to readjust to his life there. This is how he describes his life. He said, I'm illiterate in Chinese which makes simple, everyday tasks here in the military difficult. I'm trying to learn basic spoken Chinese, but I can't even understand their basic commands. I try to move when others move. I will see how they will utilize me after my basic training ends and I'm assigned to a new post, but many superiors have told me they're not sure what they're going to do with me.

□ 2140

Now, you know, Chih contacted my office for help, but I wasn't able to intervene. And America lost this great mind, this great contributor, this great engineer.

He wrote to me an email. He said he hopes that his story helps paint a small piece of a larger picture for those who don't understand the situation and the feeling of helplessness that many students and young people have. He said, It's a hard thing, feeling like the country you consider home doesn't want you in the country at all.

Visualize this image, Madam Speaker, of a young man with an engineering degree from Colorado's premier engineering school, forced to serve in the military of a foreign country where he knows no one, trying to obey orders in a language he doesn't understand. It's farcical. This is a waste of human capital, a waste of our taxpayer money to spend hundreds of thousands of dollars educating Chih, only to force him to serve in the military of a country where he doesn't even speak the language and has no loyalty. It's absurd. And it happens every day.

The DREAM Act, which our House passed and the Senate failed to act on, will solve it; and it will be the challenge for all of us in this body in the next Congress to answer how we can help Chih and others like him. We hold their futures in our hands, Madam Speaker. And while this Congress failed to act, the question doesn't go away. It puts all of us in a position of having to go back to these young people—Claudia, Zendy, Chih—and say, Not yet, when we all know it's inevitable.

This debate is about how to make our country stronger, more secure, more prosperous. This debate is about our values. This debate is about Zendy and Luis. This debate is about our country and our future.

We've invested over $70,000 of taxpayer money in Michelle's education. Now it's our choice: Do we want her to be a respected marine biologist or an illegal immigrant cleaning buildings for $6 an hour? It's up to us. Which is better for us? Which is better for our Nation? In our shoes, what do we want them to do, these young people, to better us and to better our Nation? Is somehow consigning a future scientist who might discover the cure to cancer to clean offices at 2 in the morning at minimum wage or below wise?

Michael Crow, president of Arizona State University said, ''There is a million-dollar difference, over a lifetime, between the earning capacity of a high school graduate and a college graduate.'' Drew Faust, president of Harvard said, ''The DREAM Act would throw a lifeline to these students who are already working hard in our middle and high schools and living in our communities by granting them the temporary legal status that would allow them to pursue postsecondary education.''

By fixing this, Madam Speaker, we will not only help these young people, but we will help eliminate the achievement gap in our schools and inspire other students to achieve, by upping the ante of performance in our public schools.

In the words of Secretary Arne Duncan of Education, he said, ''Passing the DREAM Act will unleash the full potential of young people who live out values that all Americans cherish—a strong work ethic, service to others, and a deep loyalty to our country.''

If not the DREAM Act, then what? What do we tell these young people? What do I tell Michelle? What do I tell Zendy? How do any of us answer these constituents of ours who are stateless individuals?

The theme of my service in Congress is human capital issues: improving our schools, our education, increasing access to higher education, taking on entrenched interests where necessary to improve our human capital. But the flip side of the education aspect of developing human capital is immigration. Not only do we want to grow the next generation of global leaders here at home, but we want to import the best and brightest from around the world, and we keep shooting ourselves in our own foot in this regard.

We lost Chih not because of him but because of us. We turned a highly trained taxpayer-financed engineer into an incompetent enlistee in a foreign military. It doesn't sound very smart to me. We should want to provide students with powerful incentives to stay in school, do well, and graduate.

A 2010 study by the UCLA North American Integration and Development Center estimated that the earnings from the beneficiaries of the DREAM Act over the course of their working lives would be between $1.4 trillion and $3.6 trillion for America. We want them working in America. We are causing a brain drain of our own making, a drain in which the very best of a generation, the college-bound, the graduate school-bound, the doctors, the servicemen, the scientists and poets are given a terrible choice: go to a distant land where you have no connections, may not even speak the language, or stay here and work in an underground, unskilled labor market.

Fixing immigration and the DREAM Act would also improve our national security. Leaders from the armed services have been nearly unanimous in their support of the bill because they recognize it would help our military shape and maintain a mission-ready, all-volunteer force. Former Secretary of State General Colin Powell and military leaders from both parties have spoken in support of the DREAM Act, as has Defense Secretary Robert Gates.

You know, I don't frequently make moral arguments in this Chamber. I heard one of the earlier speeches by Mr. GOHMERT. And our theology doesn't have a lot in common, Madam Speaker, but we try to find common ground. I think the Members of this Chamber, whether they come from the faith traditions of Christianity or Judaism, Islam or Buddhism, agnosticism or atheism, various strings of orthodoxy within their traditions, we like to consider ourselves moral people.

Let me quote from Deuteronomy 24:16: ''Fathers shall not be put to death for their sons, nor shall sons be put to death for their fathers.'' There is not a moral code prevalent in Judeo-Christian thought that suggests that it's moral for humanity to visit the sins of the father upon the son.

These commonsense values are reflected in our legal code. When someone dies, their debts aren't passed to

the son or daughter. When an adult is pulled over for a speeding ticket, no ticket is given to the 2-year-old riding in the child's seat in back. But that's exactly what, in this debate, some people are advocating: Ticket the 2-year-old who was along for the ride, they say. What that 2-year-old was doing was illegal. They were speeding too. The child was speeding.

But regardless of one's faith, punishing the wrong person for a crime because of a blood relation, because of happenstance defies our ethical sense. Some have said, This is some kind of amnesty. One can't grant amnesty to people who haven't committed any wrong, who have not violated any law.

It makes no sense to talk of amnesty for a 2-year-old who is brought along on a ride that they didn't choose. Ticketing the 2-year-old makes no more sense than penalizing a child for passively being brought here by their parents. A 2-year-old, a 5-year-old, an 11-year-old not only is incompetent to make a choice to violate the law; but even if you assume that they were, and a 6-year-old was competent for their decisions to violate our immigration laws, they are, in practice, unable to economically or socially separate from the family unit that provides for their sustenance. No one with any degree of common sense can say a 6-year-old should leave their parents if their parents are violating some law. A child has to go with their parents. There is nothing else a child can do.

With our proposals, we were willing to even say we don't even go up to the age of 18. To eliminate any question, we said, If you are 17, if you are 16, then you are going to somehow be responsible. You should know better. You should leave your parents and home and support structure. And that's a painful concession to make because I think many of us know in our hearts that 16-year-olds, 17-year-olds that we know, are they really mature and capable enough to leave their parents and survive completely on their own? Some might be, but many are not.

So we set the maximum age of 15 in the DREAM Act. That's a concession we made, we thought, to make this bill low-hanging fruit to get it passed because no one can argue that an 8-year-old or a 12-year-old is capable of what we expect a 17- or 18-year-old to have done under this bill. The lack of having some mechanism of adjusting the status of these stateless individuals, these de facto Americans is immoral for our Nation and forces underage children to bear the heavy costs of their parents' decision to violate our laws.

You know, I wish that we had passed comprehensive immigration reform and replaced our broken immigration system with one that worked, and I am proud to say I am a cosponsor of the House bill to have done that. We should reduce the number of illegal immigrants from about 15 million to about close to zero. And we know how, and we can. But we did not, so we are where we are.

We're talking about, with regard to these young people, one of the politically easiest, bipartisan, most economically important, most morally pressing elements of immigration reform, recognizing the hundreds of thousands of de facto Americans who were brought here as minors without their knowledge or consent and that our taxpayer dollars have educated and will be living their lives in our Nation as legal entities with potential to eventually obtain the full rights and responsibilities of citizenship.

You know, passing the DREAM Act would reduce the number of illegal immigrants in our country by 500,000 people. Those who oppose the DREAM Act support the ongoing presence of over 500,000 more illegal aliens within our borders. Opponents of the DREAM Act make a travesty of the rule of law and facilitate the ongoing presence of undocumented foreign nationals inside our country which hurts the budgets of counties, cities, and frustrates States, with good reason. Opponents of the DREAM Act would make a criminal, rather than a police officer, out of Zendy.

□ 2150

States like Arizona have taken actions against illegal immigration precisely because of the size of this issue and Congress' complete failure to do anything about it.

With the DREAM Act, we had a chance to cut illegal immigration instantly by 5 percent. That's substantial. I'd rather cut it by 100 percent, but 5 percent is something we can be proud of, a first step to show the American people we're serious about solving the immigration issue.

At the same time, it strengthens our economy, improves our schools, makes money for taxpayers, $1.7 billion, and restores the rule of law to our Nation.

The CBO said that it will reduce the deficit by $1.7 billion. That doesn't even include the future income streams we talked about earlier. I certainly expect that all Members who are serious about reducing the deficit will enthusiastically support deploying the talent that these young people have to bear in our country.

In my home State of Colorado, roughly 46,000 people would have been eligible under the DREAM Act. Madam Speaker, I have to go back to them and tell them, Not yet. Be patient. Keep playing by the rules. Study hard. Work hard. Our country will get it right. I hope it's next year. I hope it's the year after. But not yet.

Our decision before us was clear. We had the choice of making a marine scientist out of Claudia or an illegal immigrant. Last week, I'm sad to say, Madam Speaker, that while our House would have made a marine scientist out of Claudia, the failure of action in the Senate has made Claudia an illegal immigrant. Our Nation deserves more scientists and engineers, not more illegal immigrants.

I want to pose two questions. One is: What would we ask of them? What do we want these young people to do? That's what they ask me. What would you have us do?

And the second: What is best for us and our country?

Claudia posed it well. What do they want us to do? she said.

Instead of going to college and serving in the military, are we telling Claudia to clean buildings at night? Are we telling her to become a nanny or a construction worker? Are we telling her to go to a country where she doesn't know anyone, barely speaks the language, and hasn't even been to in her memory?

I want Claudia to be the best darn marine scientist in the United States and to make great scientific discoveries that benefit humanity and improve our knowledge of the ocean.

For those who oppose the DREAM Act, I ask them: What do you want Claudia to do?

These stateless young people will be a credit to any nation. Let's make it our Nation.

Madam Speaker, this debate is about Ray. Ray was brought here when she was 2 years old. Her parents told her that she was born in the United States so she wouldn't feel the stigma of being foreign born. So Ray grew up not knowing she was foreign born until she was a teenager. Ray wanted to be involved with fashion. Her tough, can-do attitude led her to start her own lace business. Now, unfortunately Ray is no longer with us. She passed away. But don't fret. This immigrant story ends happily. Ray Keller, my great grandmother, passed away at the age of 98 in 1989. Without friendly immigration laws that allowed people to naturalize, I wouldn't be standing here before you today as a Member of Congress.

So too, Madam Speaker, there are future generations of Americans including, I'm sure, future Members of this body who are relying on Congress to act to recognize their forebears as the excellent Americans they already are.

Madam Speaker, Ray Keller was a proud American. This speech tonight is not a eulogy for a lost opportunity to pass the DREAM Act and replace our broken immigration system; rather, this speech is a challenge, a challenge to the next Congress to give all of us an answer, an answer for what Claudia should do, an answer for what these young people, these children of our country should do with their lives, should do with their lives to pursue their own dreams and should do with their lives to contribute to the only country they know—the United States of America.

LAME DUCK CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Madam Speaker, it's always a privilege and an honor to

address here on the floor of the House. And we're in the waning days, waning hours perhaps, of this 111th Congress as many are prepared to go home for Christmas, and by the count of the votes on the board tonight, some have gone home for Christmas.

And I listened to the remarks of the gentleman from Colorado who spoke ahead of me, and I'm not of the spirit to directly rebut each of the points that he's made. I want to stay within the Christmas spirit here tonight, Madam Speaker, and simply address that there is another viewpoint, and that other viewpoint was heard.

We have, over the last 4 years in this Congress, seen significant majorities for Democrats, and there were opportunities for Democrats to seek to pass their immigration legislation which they constantly refer to as comprehensive immigration reform. And that has become what the American people understand; comprehensive immigration reform is a euphemism for amnesty. And even though there were opportunities along the way over the last 4 years under the Pelosi speakership, there hasn't been a significant piece of their version of immigration reform that's passed. And, of course, neither has there been a significant piece of immigration enforcement that has passed, especially over the last 2 years with President Obama in the White House, having made those promises that he would be supporting and working towards the passage of some type of comprehensive immigration reform.

And as we saw the majority shift here in the House of Representatives dramatically, where we have 96 new freshmen coming in, 87 of them are Republicans. And I don't think there's anyone out there that looks at the results of the election and believes that this House of Representatives is going to be persuaded by emotional arguments. The incoming House of Representatives, with the 87 Republican freshmen that are coming in and swearing in here on January 5, I believe, will be a Congress that sets the rule of law in very high respect and is not as swayed by individual anecdotes and more concerned about the empirical data and what really happens to a country over the long term that doesn't enforce its laws. That's what I think we can expect to come.

I am the ranking member of the immigration subcommittee, and on that committee, over the last 2 years, with Chair LOFGREN chairing that subcommittee, there have only been eight hearings in 2 years on immigration. That's fine with me because the agenda that they would have driven would have been, I think, an agenda that I would have opposed.

But nonetheless, those eight hearings that have been held, only eight in 2 years, four hearings a year, that's all the activity that's really measurable in the immigration subcommittee.

And so I think when the gentleman from Colorado makes his case, I think it's heartfelt, and I think he is deeply convinced that it's the right policy and agenda for America. As we move close to Christmastime, knowledge that he has is a viewpoint, and I think he'd acknowledge that I have mine. I will stand up, Madam Speaker, for the rule of law.

And the implications of what goes along with the very well named but not very good policy DREAM Act, I think, became more and more aware to the American people. And as they spoke and weighed in and made their calls in the Senate, then this project, this vote that was held in the Senate failed. And when it did, that's the end of it for the 111th Congress. And it's pretty unlikely that it will be the beginning of it in the 112th Congress as the Congress is configured. And so, from my standpoint, I'm looking forward to the work that we must do and the work that we must do to address the immigration issue coming forward.

There is something that I think is a bipartisan interest to us though, Madam Speaker, and that is, I hear on both sides of the aisle, and I began to hear this about 6 years ago, the concern about how employers were victimizing employees who were unlawfully here in the United States, working unlawfully in the United States.

□ 2200

So I began to look at how can we address this in a bipartisan way. And even though it seems as though the Obama administration and Janet Napolitano included are unwilling to enforce immigration law against employees, they are willing to enforce it against employers. Note some of the enforcement action that has gone in and just gathered the information from the illegal employees, but not brought charges against them, nor started deportation, but brought just the charges against the employer instead.

So I looked at this situation a few years ago and put together a proposal, and this proposal takes into account the Democrat viewpoint, the Republican viewpoint. Both of us are opposed, I believe, in principle, to employers victimizing employees, of them flouting the law and capitalizing on the cheaper labor that they are able to hire and compete against their competitors who would be complying with the law. And also it recognizes that this Federal Government has found itself sometimes where the right hand doesn't know what the left hand is doing. And sometimes the agencies within the government are working at cross-purposes to each other.

One of those examples would be a Social Security Administration that deals with millions and millions of no-match Social Security numbers or Social Security reports that are duplicated multiple times, the same Social Security number used multiple times, maybe all across the country where we know it's impossible to be in two jobs at the same place at the same time.

The Social Security Administration seems to turn a blind eye towards the implications of the illegal employment and the fraudulent documents that are used for people to work unlawfully in the United States because often those claims on the Social Security trust fund aren't ever filed. People are walking away from it.

If they are working illegally in the United States, often those illegal workers will claim the maximum number of dependents so their withholding on their State and Federal income tax is zero. But they pay the payroll tax, the Social Security, the Medicare, and the Medicaid because they really have no choice with that. But then they aren't going to be in a position to tap into that as an illegal worker in America.

So the duplications that go on and the money that flows into the Social Security trust fund, a significant amount of that is rooted in illegal labor. Social Security trust fund, happy enough getting those extra revenues coming in, and the Department of Homeland Security seems to want to secure some of the areas that are their due, but not reach out and actually put together a network that would address this thing in a broader holistic way.

So I was looking at that thinking, which agency actually does an effective job of enforcing the laws that they have and which one is most respected by the American people? And as I cast my mind across these agencies, it came to the IRS. The IRS has the respect of every taxpayer in America. They don't want to be audited. They fear an audit. Was it 58 percent of the people would rather have a root canal than an IRS audit? Root canals may or may not be all that painful, but that's one of the measures that came out in one of the pollster's numbers, 58 percent would rather have a root canal than be audited by the IRS. I would be among them. I would rather have the tooth pulled myself.

But the IRS does an effective job of enforcing the law, and they do an effective job of going down through a person's books and accounting and coming up with flaws that are there. So I put together a proposal, and it's called the New IDEA Act. The New IDEA. New IDEA stands for the New, and the acronym IDEA is Illegal Deduction Elimination Act. What it does is it clarifies that wages and benefits are not tax-deductible for Federal income tax purposes if they are going to an illegal employee. And it gives the employer safe harbor if that employer uses E-Verify.

So if the employer in their hiring of employees runs the Social Security numbers, the identification information that's on the I–9 form into E-Verify, and it comes back and they only hire those employees that clear through E-Verify, then we give them safe harbor. But if they have employees that are on the list, the Social Security numbers will be on the tax form when the IRS comes in to do a normal audit. We don't accelerate the audits,

just a normal audit. The IRS would then punch the Social Security numbers of those employees that are on the tax form into E-Verify; and if it comes back they are all lawful to work in the United States, no problem. If it bounces back that some of them cannot be confirmed to work lawfully in the United States, we give the employer time to cure, the employee time to cure. And if the employer uses E-Verify, again they have safe harbor.

But the IRS then can conclude that the wages and benefits have been paid to illegals, and therefore those wages and benefits are not tax deductible. What that does then is it kicks that business discount, the schedule C business expense, over onto the profit column. When it does that, it makes that income, and the income then is taxable for interest and penalty.

And so the net result will be roughly this: if an employer is hiring illegals roughly at say $10 an hour, and I can do the math on this, Madam Speaker, and the IRS comes in and does the audit and concludes that an employee is illegal at $10 an hour, by time the tax that's applied to that as a business income as opposed to an expense, and the interest and the penalty is applied, the $10 an hour illegal employee becomes about a $16 an hour illegal employee, causing the employer to make the rational decision with their capital, and that is clean up their workforce before the IRS shows up.

There is a 6-year statute of limitations. It's cumulative. The clock would start to tick on that when the bill would become law. And then over a course of 6 years, there would be a cumulative 6-year statute of limitations. That means that employers the first year would see 1 year of exposure, second year 2, obviously, on up until 6 years. And the greater the exposure, the greater the risk and the liability and the greater the incentive to clean up their workforce as they move forward.

But it doesn't pull the plug on anyone. It's not a dramatic change. It is a business incentive plan that I think will move thousands of employers into the legal employment business.

And today it's New IDEA Act, it's H.R. 3580. And I believe it will become, in the upcoming Congress, the most useful and effective piece of immigration legislation that this Congress may consider. And it's likely to be referred to the Ways and Means Committee because there are tax components to it. And I look forward to working with people to get the cosponsorships on the bill and work it through the process and earn a hearing and perhaps earn a markup, and one day see it go over to the Senate, where I would be glad if they would take it up and onto the President's desk. It's something that should have bipartisan support again, Madam Speaker. H.R. 3580 the New IDEA Act, the IRS coming in.

By the way, the bill also requires the Internal Revenue Service and the Social Security Administration and the Department of Homeland Security to put together a cooperative team so that they are sharing information so that when the right hand doesn't know what the left hand is doing, we put them together and require that they cooperate with each other so that the right hand and the left hand and the middle hand of the IRS, Social Security Administration, and Department of Homeland Security all know what each other is doing, all are cooperating towards a common goal of cleaning up the illegal workforce in America through the New IDEA Act.

And I think that that has some promise and an opportunity to one day become law in this Congress. And I intend to work it pretty hard. That's something that I think can be proactive.

Now, I wanted to speak, though, as I came here tonight, Madam Speaker, I wanted to address the situation of a lame duck session. A lame duck session, this lame duck session has been full of all kinds of issues that I think didn't have any business being in the lame duck session. A lame duck session is, of course, for those listening in, it's the session of Congress that takes place after the election.

So the election took place November 2, and there was a dramatic shift in seats here in this Congress. And as in a shift in power, all the gavels are changing hands going over from Democrats to Republicans, including the Speaker's gavel. And this will happen on January 5 of this upcoming year, not very far from now. And as that happens and this dramatic shift is taking place, it's because the people in America have spoken. The people in America have spoken up, and they have said, we want to change course.

They watched President Obama digging this hole economically, socially, I think a radical social agenda, I think a radical economic agenda, foreign policy agenda that I don't quite have a theme figured out for. But the President's agenda, the agenda of Speaker PELOSI, the agenda of HARRY REID, the American people said, Stop, you have been digging a hole. Been digging a deep hole with roughly $3 trillion in spending that's over and above what would be normal spending here in this Congress. And the American people went to the polls November 2, and they took the shovel out of the hands of President Obama by means of shifting the majority here in the House of Representatives and changing the gavels from the hands of Democrats into the hands of Republicans.

When the people of America say stop, it's enough, the people that are serving in this Congress in this lame duck session, this session between November 2, the election, and January 5, which is the swearing-in of the new Congress, the people serving in this Congress need to understand when the American people said enough, that's too much, stop, this Congress needed to respect the will of the American people and stop.

□ 2210

Stop digging, stop moving the radical social agenda. In fact, stop moving the radical socialist agenda. HARRY REID should stop, Speaker PELOSI should stop, Barack Obama should stop, and this Congress should have only dealt with those issues that were necessary to keep this government functioning in its proper fashion between November 2nd and January 5th.

This Congress could have passed a simple continuing resolution like this House did today that would have bridged the gap through November, December, maybe even January and February, but have gotten a smooth transition over into the next Congress, a respect for the voice and the will of the American people, as Republicans essentially did in the year 2006, respected the will of the American people.

This has not been to be. One radical thing after another. Don't Ask, Don't Tell comes through here on the floor. That is a piece of policy that had all the last 2 years to be brought forward, if that was the will of the majority. But the majority was afraid of the wrath of the American voters.

They were afraid of the wrath of the American voters, so they didn't bring a budget. It is required by statute. Since 1974, the first time this Congress hasn't passed a budget, the House of Representatives since 1974. It didn't happen this year.

The process was shut down, Madam Speaker, so that first the thing that went away was the open rule that allowed any Member to offer an amendment on an appropriations bill that could cut spending down or plus spending up and make some reasonable changes within the germaneness rules of the policy of the appropriations rules. But that was shut down in the second year of the Pelosi speakership.

And then there were the appropriations bills themselves shut down, and they began to run this government on continuing resolutions, omnibus spending bills. The omnibus spending bill that was brought up in the United States Senate, $1.72 trillion, full of pork, chuck full of earmarks, 6,600 earmarks, pork that just dripped with fat in the United States Senate. And the American people finally rose up and they let the Senators know it is no longer going to be business as usual.

The American people have risen. They have packed this Capitol with tens of thousands of people, and they come with their American flags, their yellow Gadsden flags, the Don't Tread on Me flags, Constitutions in their pockets, patriotism on their heart, tears in their eyes at what they see is happening in this country. The American people have done everything that you could ask them to do in a constitutional fashion. The American people have peacefully petitioned the government for redress of grievances. It is constitutional.

And, Madam Speaker, this Congress' heart was hardened. They refused to listen to the American people. They rammed through out of this House the cap-and-tax bill, cap-and-trade some call it, a debilitating bill that punishes American industry and American investment and American entrepreneurs and rewards other countries, puts us at a disadvantage with emerging economies such as India and China. It passed the House and not the Senate, thankfully.

I am thankful for the filibuster that exists in the United States Senate. There is a complaint that it has been used too much and that something needs to be done to put an end to the filibuster or to alter it. Well, I would submit, Madam Speaker, that the reason the filibuster has been used this much is because of the radical agenda that has been driven through the Senate, promoted by the President, promoted by the Speaker of the House and driven and managed by HARRY REID, the majority leader in the United States Senate, who looks like he will stay as majority leader in the United States Senate.

Cap-and-tax out of this House floor. ObamaCare. We watched the President come in and nationalize the banks, the insurance companies, the car companies, Fannie and Freddie, the student loans. All of that swallowed up, 33 percent of the formerly private sector economy swallowed up by the Federal Government. And then ObamaCare, the nationalization of our skin and everything inside of it.

The American people came and surrounded this Capitol. Not one deep with arms stretched out as far as they could go, six and eight deep all the way around the Capitol. We don't have a picture of that because of air security, or there would have been news helicopters up above taking shots of the human ring, six and eight deep all the way around the Capitol that was formed to tell this Congress stop. Stop. You are spending too much. You are taking away our liberty. You are passing legislation that is unconstitutional, or at a minimum constitutionally suspect. All of that taking place before the election.

And then at the election, the American people poured forth and filled up the voting booth and put their mark down on their ballots, no, no, no, no, to the radical social leftist agenda that has been driven through this Congress, and that message should have been heard loud and clear before the stroke of midnight on the 2nd of November.

And the new day comes forward, the new day came forward and we see nothing but dig in, drive that agenda and drive that agenda. I, Madam Speaker, am here to speak up against it, and I am hopeful that in any succeeding lame duck session that we have, whether it would be Republicans in the majority or Democrats in the majority, that we respect the will of the American people and stand down and bridge the gap between the election in November and the new Congress in the early part of January with just the minimum amount of legislation necessary to make that transition.

If the majority holds the same and there is work that needs to be done and not very many seats have changed dramatically, then in that case it is a little bit different question. But when the majority changes and the majority changes dramatically, as it did this time in a way more dramatic than 1994 even and as dramatic as going back to 1948 and another previous election, then no.

There have only been three or four times in American history that this Congress turned around the way it turned around this time, and at no time to my knowledge has there been such an aggressive agenda driven in a lameduck session, including the idea of taking up a treaty in the United States Senate. I don't believe that has ever been done.

So, Madam Speaker, we have had the food safety bill today, the food safety bill that is a $1.3 billion bill or $1.4 billion bill that is another big reach in government that brings in about 17,000 new government employees and inspectors.

We have the safest food in the world, and we need an army of 17,000 additional inspectors so that we can satisfy the urge to expand the nanny-state? It is the only reason I can think of that we would have a policy like that. The safest food in the world and the largest army to inspect the food, and now out of the House goes the food safety bill, another irresponsible safety and growth in government and unnecessary solution in search of a problem, Madam Speaker.

Don't Ask, Don't Tell. Don't Ask, Don't Tell. The repeal of Don't Ask, Don't Tell, one of the few policies that Bill Clinton endorsed that I thought was a good policy that actually was working. Another solution in search of a problem. It is a political agenda. It is a social experiment in our military.

Our military needs to be able to fight. We need to listen to them. And when we hear the modified positions of our top military officers, one can only suspect that it is a possibility they are taking orders from the commander-in-chief. How about that. What would that mean, if a multiple-star general was taking orders from the commander-in-chief and decided that he would have a position on Don't Ask, Don't Tell that was less clear than it might have been 2 or 4 years ago?

The passage of ObamaCare, as I mentioned, is another piece that came along in this past year, although not in a lameduck session. I look forward, Madam Speaker, to the repeal of ObamaCare as it passed here in late March of this year, late into the night. I was the last one to leave the Capitol here at night, which isn't new, but it happened that night, I am confident.

As I walked home, I told myself, I am going to lay down and rest. I am exhausted. I spent weeks fighting this with everything that I have. And the rest didn't last very long. After about 2½ hours I was up thinking about what can we do?

It is extraordinarily unusual to have a piece of legislation, especially a high-profile, hard-fought piece of legislation like ObamaCare, extraordinarily unusual to ever see anyone introduce legislation to repeal the legislation that has just passed. But I got up and I drafted a bill draft request to do just that, to repeal ObamaCare. And, curiously, without coordination, the same thing was going on in the office of MICHELE BACHMANN, and our bill drafts came down within 3 minutes of each other.

□ 2220

Identically, the same 40 words that conclude with words pretty close to this: Repeal ObamaCare—a little more language—as if it had never been enacted. That's the quote, ''as if it had never been enacted.'' That's a pretty complete way of talking about repealing a piece of legislation.

There were those that thought that it was just an act of protest, an act of frustration. They maybe thought that neither one of us were enough of a statesman that we could accept losing on a vote like that and walk away and fight on another issue another day. But, truthfully, it was simultaneously coming to the same conclusion, the same conclusion that America cannot reach the next level of its destiny if ObamaCare is going to be a component of that destiny because it ties us down, because it anchors us, because it takes away and diminishes our options as individuals, because it mandates that we buy insurance. There are, I think, four constitutional violations in ObamaCare itself, and some of that is in the middle of being litigated right now.

The commerce clause is the clearest and easiest one, and I am happy to see the decision by Judge Hudson in upholding the suit that was brought by Ken Cuccinelli in Virginia, and others. And I look forward to the decisions that will unfold from the Florida suit. And it looks like about 25 States have joined in this litigation in one form or another. And I'm hopeful that when our new Governor in Iowa is sworn in, that one of the first acts in office he will have is that Governor Branstad will join in the litigation against ObamaCare in whatever capacity he is able to do that.

There are three ways to undo ObamaCare, Madam Speaker, and one of them is through the courts and every means of litigation at our disposal, and that path is following pretty well. But we learned—we knew this actually going in, but it was very clear—McCain-Feingold was one of those examples, a piece of legislation that perhaps was signed by the President in anticipation that the courts would overturn it. I don't know that. I just say

perhaps. But anybody that believed that the court was going to save us was disappointed in the short term and mildly pleased in the longer term. But one should never vote for and never sign a piece of legislation that they believe will be unconstitutional because that leaves it up to the courts to do the job that we need to be doing as a legislature.

However, I believe the litigation needs to go forward on ObamaCare and that if the courts finally find all components of it unconstitutional, we can at that point perhaps wash our hands of it and we should pass, then, a repeal to get it out of the books so it's not sitting there waiting to be litigated again.

But I'm looking at the courts for relief—short-term relief, injunctive relief—and I'm hopeful that all of ObamaCare will be ripped out by the court. I believe that it has enough unconstitutional components and no severability clause, so that would tell me there's a possibility that it all could be removed by its violations of our Constitution. That's one of the ways to address the repeal of ObamaCare.

Another way is for our States, our Governors, to refuse to implement ObamaCare and to refuse to invest those State tax dollars in the high cost of increasing Medicaid that it imposes on the State and essentially throw a wrench in the works and resist the administration's determination to implement ObamaCare, and do that from all of our Governors' offices across the country where we have people that oppose it. That's another component of this opposition that can be effective.

The third one, and the one that's the most essential and the one that, if it's completed, is the most certain is a statutory legislative repeal of ObamaCare. Since the tax bracket bill came through last week that extended the 2001 and 2003 tax brackets for 2 years that provided for a $5 million exemption for the estate tax and a 35 percent rate, fixed a few other things and caused a lot of other problems, but since that tax bill went through and there's an agreement that's made on it for 2 years, then I'll submit, Madam Speaker, that the most important piece of legislation that the new Congress can take up, and I'm hopeful that incoming Speaker BOEHNER will elect to make H.R. 1 the first piece of legislation here in the House of Representatives, H.R. 1, the standalone repeal of ObamaCare, a 100 percent repeal of ObamaCare; legislation that would stand on its own, that would be very clear, that would put up a vote in this House that would allow for a full repeal of ObamaCare in H.R. 1.

Just to put a marker down and declare the approach that I support, since I have taken this issue on in a personal way and filed a discharge petition where I have 173 signatures on that discharge petition, I thought it was important that I articulate the legislation that I would like to see come forward in the 112th Congress. And in my consultation with Congressman HERGER of California, I looked into the language that he put together after I had introduced the repeal language, and he did so after the reconciliation package that came from the Senate.

There were two pieces of legislation that came together to make up ObamaCare. One was the bill itself, and the other one was a reconciliation package that passed several weeks later. That reconciliation package needed to be included. So I added the component of the Herger legislation repeal to the repeal language that I've introduced and the same repeal language that I added that MICHELLE BACHMANN introduced. And she and I filed that bill last Friday, just to add some clarity and unity to the language we support for the repeal of ObamaCare, with the complete agreement of Congressman HERGER from California, who agrees with the language and encouraged me to file the bill.

So that's there as a marker, so anyone that wants to take a look at it and see what it is that we want to repeal, it's ObamaCare; it's the reconciliation package that came from the Senate. They did that in order to circumvent the filibuster. I thought that it was legislative sleight-of-hand myself. And that's what we got.

I'm committed to the full, 100 percent repeal of ObamaCare. I believe that our leadership is committed to the full, 100 percent repeal of ObamaCare. And yes, there will be a lot of different ways to look at this strategically. But to march down through this beyond the repeal piece of legislation, which I anticipate will be very early in the new Congress, my proposal is that we shut off spending in every appropriations bill; that we put language in every appropriations bill that no funds and no funds heretofore appropriated shall be used to implement or enforce ObamaCare. If we do that with all the appropriations bills going through the 2011 calendar year, the 2012 calendar year, by the time we arrive at the Presidential election in November of 2012, it will be pretty clear that ObamaCare has not been implemented, it has not been enforced, none of the dollars would be allowed to be used for that.

And I'm hopeful that we will elect a President who runs on the ticket and calls for the mandate from the American people that the first order of business for the next President of the United States who would be inaugurated on January 20, 2013, would be to have Congress put on his desk the repeal of ObamaCare and sign that as a first order of business as the next President of the United States. That's the goal. It can be done. It isn't a futile effort.

I've had some people say, Well, why do you think you can repeal ObamaCare? The President would veto it as soon as you pass the legislation. In the first place, if the House passes the repeal of ObamaCare, there's no agreement the Senate would take it up. But surely, they're not going to take it up unless we send it over there. So we need to pass the repeal, send it to the Senate, build the pressure so that they can perhaps find a way to take it up in the Senate. If they do so and the repeal of ObamaCare gets passed by both Chambers in the same form and it goes to the President, yes, I, like every other thinking American, would expect President Obama to veto such legislation, but we would have people on record. We would have an agenda that would be laid out. And that lays the foundation to unfund ObamaCare, and it lays the foundation then to take us to the point where we can elect a President who will sign the repeal. That's the strategy. It needs to be done.

If the American people are going to reach the next level of our destiny, we cannot have ObamaCare as an anchor that's tied around our leg that continuously sinks the entrepreneurs, sinks the small businesses, grows the taxes, creates lines, rations care, prohibits us from buying the insurance policies of our choice. The list goes on.

□ 2230

Mr. Speaker, I am well aware of the time of the season that we have here, and I am thinking about the families of all of those who are on their way home tonight and of those who will be on their way home tomorrow and perhaps the next day.

All the staff that works here in this Congress and the people who are here as this team is tonight, recording every word that comes from any Member of Congress and who are in the middle of this debate constantly, making sure that everything is precisely, accurately quoted and coordinated in this CONGRESSIONAL RECORD, are top-notch and the envy of the world. Of the team that is here, many of them I have worked with for years, and I don't know if they're Democrats or Republicans. I know that they respect the institution and the people who serve here. I appreciate them, and wish all of them a very Merry Christmas and a happy new year.

While I look around at my colleagues, both Democrats and Republicans, and know some of their families and our staff from our offices, who toil sometimes in oblivion, I think of all of that contribution that's there, and I am grateful for them all.

I also cast my mind's eye overseas to some of the places that I have gone to visit our troops and our personnel. It just so happens that, a little over a year ago, I missed a family event that was of high importance to us because of duty here, and even though there were quite a number of calls expressing sympathy for that, a month later, I found myself in Afghanistan. As I was seated in a late-night briefing, one of the generals—and I probably asked one too many questions, and got a little bit close to the personal side. He will know

who he is, but I won't utter his name into this RECORD, although I have great respect for him as a patriot, as a warrior and as a servant for America.

He said, though, in that night conversation in Afghanistan, I was deployed when they served divorce papers on me from my first wife, and I started a new family. I have a girl and a boy. My little boy is 5 years old, and I have been deployed for three of his first five Christmases.

I sat there and listened to that, and it had been about a month since I had missed a very, very important family event in my own family. I listened to that officer tell me of being deployed when he received divorce papers, of being deployed for three of his son's first five Christmases. I think he is deployed right now.

I think about the men and women who put on the uniform and who are deployed in harm's way around the world in Iraq, Afghanistan and in other places around the world.

I was watching as the USS Harry Truman docked here in the last day or so. The sailors who got off of that ship were seeing babies born, their children born—babies they had never seen since they were born. Little babies were put in their arms. They'd kiss their wives quickly and pick up and marvel at a little miracle that would be 2 or 3 or 6 months old who they had never seen. Their own child. They weren't home for the birth of the child. They missed weddings. They missed funerals. They got back when they could, but they were deployed; they were at sea. They were serving America.

That's true on the USS Harry Truman. That's true in places like Afghanistan and Iraq and other places around the world where we have our men and women in uniform—our soldiers, sailors, airmen, and marines—in harm's way every day, at risk of death, at risk of sacrifice, some losing their lives. While all of this is going on, sometimes we get wrapped up here, and we think ours is a sacrifice.

Well, Mr. Speaker, I would submit that ours is a duty and a service and a privilege and an honor, and sometimes it is a sacrifice; but when we think about our sacrifice here, I ask all to think about the sacrifice over there, which is far greater—far more family time lost and missed, moments that will never be recaptured again, limbs lost, and lives lost . . . never to come back again.

So, with all of that in mind and with the Christmas season upon us, I would like to close with a poem that was written by the greatest respecter of our warriors in this Capitol building—Albert Caswell—who can be seen around this Capitol, giving tours to the wounded on a daily basis with eagerness and enthusiasm and a profound respect for those who have served us so well and especially for those who have been wounded and for those who have been lost. Sometimes he sits up in the middle of the night and will write a poem. I think he gets started, and he can't stop until he finishes it and brings it to a conclusion. This is a poem that he wrote just a few days ago. It's called ''This Christmas.''

''This Christmas . . .

''As the snow falls to the ground . . .

''And all the children dance, with songs of joy so
all around . . .

''With stockings hung by the chimneys with care . . .

''With hopes and dreams, of Santa there . . .

''With Christmas dinners and fires all aglow, as
before this family a feast lies so . . .

'''O Holy Night! A Child was born, for all to know!'

''Joy to the world, let Heaven and nature sing, but
remember . . . remember . . . remember all of them, and
all of those . . .

''Those families! Those patriots of peace!

''The ones, who'll this Christmas . . . will not so
together be!!

''Who upon battlefields of honor fight!

''So far away from our country tis of thee, this
night . . .

''Men and women of such honor bright, who for all of
us so carry that fight . . .

''Why there can be peace on Earth, because of their
light!

''Who now so live with such heartache and death . . .

''Who upon each new day, their honor our lives so
bless!

''As they so bless us one and all, with all of their
gifts of most selfless sacrifice . . .

''And all of those lost loved ones, who lie in soft,
quiet, cold graves . . .

''Teaching us all the true cost, the price of freedom paid!

''Precious daughters and sons, husbands and wives . . .

''Fathers and mothers, sisters and brothers who gave
their lives . . .

''That last full measure . . . as for them we cry!

''Whose loved ones' pain, will never die . . .

''Who on this Christmas morning, sit with but tears
in eyes . . .

''As they listen to their children cry, 'Mommy,
Daddy . . . I wish you were by my side.'

''With one less place at the dinner table this
year . . . they all so begin to cry . . .

''And all of those who have come home, without arms
and legs, who did not die!

''Without eyes and faces, with burned in all
places . . . in hospital beds they try!!

''Blessing us all with their fine gifts they gave!

''Making us all so see, just how magnificent and
inspiriting a heart can be!

''And remember all of those, whose loved ones lie far
across the shores . . .

''As with each new day, brings such great worry . . . so
for sure!

''But, waiting . . . but waiting for, that knock on the
door . . .

''That phone call, that they now so pray not for . . .

''Quiet heroes, one and all!

''Watching them from Heaven, the angel's teardrops
fall . . .

''Lord God, Lord God . . . bless them . . . bless them all!

''For these are the families, who have paid the cost!

''Bore the burden, carry that cross, that cross of
war!

''This Christmas, as you hold your families tight . . .

''And all seems so fine, and all seems so very
right . . .

''And you see all of those smiles upon your
children's faces, so bright . . .

''Give thanks! Give praise! As upon your knees as
you begin to pray . . .

''For all of those families, who have so
sacrificed . . .

''And remember their blessings, their gifts of
freedom . . . this night!

''This Christmas . . . ''

Mr. Speaker, I wish all of us a Merry Christmas and a happy new year. May we reconvene in the 112th Congress with a new spirit—a spirit that keeps in mind the price and the sacrifice paid by our veterans and our families that support them, the legacy that they have left for us, the duty that we have to honor their sacrifice. May we come back and join together in that task in January of 2011.

May we go home and give great thanks for their sacrifice and the blessing of Our Lord and Savior, Jesus Christ.

With that, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. BOEHNER) for today and the balance of the week on account of knee surgery.

Mr. DOYLE (at the request of Mr. HOYER) for today.

Mrs. MCMORRIS RODGERS (at the request of Mr. BOEHNER) for today and the balance of the week on account of the birth of her daughter.

Mr. PASTOR of Arizona (at the request of Mr. HOYER) for today.

Mr. YOUNG of Florida (at the request of Mr. BOEHNER) for today on account of family illness.

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. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. MCGOVERN, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. JACKSON of Illinois, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. SHIMKUS) to revise and extend their remarks and include extraneous material:)

Mr. SHIMKUS, for 5 minutes, today.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

H.R. 628. An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

H.R. 1107. An act to enact certain laws relating to public contracts as title 41, United States Code, ''Public Contracts''.

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 2965. An act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

H.R. 4973. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

H.R. 6473. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 6510. An act to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

H.J. Res. 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House, reports that on December 17, 2010, she presented to the President of the United States, for his approval, the following bills.

H.J. Res. 105. Making further continuing appropriations for fiscal year 2011, and for other purposes.

H.R. 2941. To reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

H.R. 6198. To amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6516. To make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

H.R. 4337. To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 1061. To transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 6278. To amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes.

H.R. 5591. To designate the airport traffic control tower located at Spokane International Airport in Spokane, Washington, as the ''Ray Daves Airport Traffic Control Tower.''

H.R. 4853. To amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 22, 2010, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

11023. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Permission To Use Air Inflation of Meat Carcasses and Parts [Docket No.: FSIS-2007-0039] (RIN: 0583-AD33) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11024. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Uniform Compliance Date for Food Labeling Regulations [Docket No.: FSIS-2010-0031] (RIN: 0583-AD) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11025. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Tolerance Crop Grouping Program II; Revisions to General Tolerance Regulations [EPA-HQ-OPP-2006-0766; FRL-8853-8] (RIN: 2070-AJ28) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11026. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Metrafenone; Pesticide Tolerances [EPA-HQ-OPP-2008-0732; FRL-8854-6A] received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11027. A letter from the Director, Regulatory Management Divison, Environmental Protection Agency, transmitting the Agency's final rule — Extension of Tolerances for Emergency Exemptions (Multiple Chemicals) [EPA-HQ-OPP-2010-0981; FRL-8857-5] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11028. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Flutolanil; Pesticide Tolerances [EPA-HQ-OPP-2009-0775; FRL-8855-7] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11029. A letter from the Under Secretary, Department of Defense, transmitting a report of a violation of the Antideficiency Act, Air Force Case Number 08-03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

11030. A letter from the Under Secretary, Department of Defense, transmitting a report of a violation of the Antideficiency Act, Air Force Case Number 08-02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

11031. A letter from the Director, Office of Science and Technology, Executive Office of the President, transmitting a letter to report violations of the Antideficiency Act; to the Committee on Appropriations.

11032. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's second quarter report for calendar year 2010 as required by the Joint Improvised Explosive Device Defeat Fund; to the Committee on Armed Services.

11033. A letter from the Under Secretary, Department of Defense, transmitting the final letter regarding the effect of extended

and frequent mobilization of Reservists for active duty service on reservists income; to the Committee on Armed Services.

11034. A letter from the OSD Federal Register Liaison Officer, Department of Defense, transmitting the Department's final rule — Homeowners Assistance Program — Application Processing [DOD-2009-OS-0090] (RIN: 0790-AI58) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11035. A letter from the Chairman, Congressional Oversight Panel, transmitting the Panel's monthly report pursuant to Section 125(b)(1) of the Emergency Economic Stabilization Act of 2008, Pub. L. 110-343; to the Committee on Financial Services.

11036. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Confidentiality of Suspicious Activity Reports [Docket ID: OCC-2010-0019] (RIN: 1557-AD17] received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11037. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Standards Governing the Release of a Suspicious Activity Report [Docket ID: OCC-2010-0018] (RIN: 1557-AD16) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11038. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Turkey pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11039. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to India pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11040. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Use of Community Development Loans by Community Financial Institutions to Secure Advances; Secured Lending by Federal Home Loan Banks to Members and their Affiliates; Transfer of Advances and New Business Activity Regulations (RIN: 2590-AA24) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11041. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Administrative Wage Garnishment received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11042. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — Supplemental Priorities for Discretionary Grant Programs [Docket ID: ED-OS-2010-0011] (RIN: 1894-AA00) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

11043. A letter from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

11044. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products: Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers [Docket No.: EERE-2009-BT-TP-0003] (RIN: 1904-AB92) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11045. A letter from the Department Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; General and Plastic Surgery Devices; Classifications of Non-Powered Suction Apparatus Device Intended for Negative Pressure Wound Therapy [Docket No.: FDA-2010-N-0513] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11046. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Greensboro-Winston-Salem-High Point; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard; Correction [EPA-R04-OAR-2009-0561-201053(c); FRL-9235-4] received December 1, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11047. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Hickory-Morganton-Lenoir; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard; Correction [EPA-R04-OAR-2009-0751-201054(c); FRL-9235-5] received December 1, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11048. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call [EPA-HQ-OAR-2010-0107; FRL-9236-3] (RIN: 2060-AQ08) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11049. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Methods for Measurement of Filterable PM10 and PM2.5 and Measurement of Condensable PM Emissions from Stationary Sources [EPA-HQ-OAR-2008-0348; FRL-9236-2] (RIN: 2060-AO58) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11050. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Oregon; Correction of Federal Authorization of the State's Hazardous Waste Management Program [EPA-R10-RCRA-2010-0947; FRL-9236-8] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11051. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Delaware; Limiting Emissions of Volatile Organic Compounds from Portable Fuel Containers [EPA-R03-OAR-2010-0435; FRL-9237-9] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11052. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-hour Ozone Nonattainment Area; Texas [EPA-R06-OAR-2010-0412; FRL-9240-8] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11053. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities [EPA-HQ-RCRA-2003-0012; FRL-9240-5] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11054. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Mississippi; Prevention of Significant Deterioration Rules: Nitrogen Oxides as a Precursor to Ozone [EPA-R04-OAR-2009-0041-201058; FRL-9241-1] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11055. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program [EPA EPA-HQ-OAR-2005-0161; FRL-9241-4] (RIN: 2060-AQ31) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11056. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances [EPA-HQ-RCRA-2009-0310,FRL-9239-8] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11057. A letter from the Director, Regulatory Management Divison, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey; 8-hour Ozone Control Measures [EPA-R02-OAR-2010-0310, FRL-9214-4] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11058. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans For Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infections Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval [EPA-R03-OAR-2010-0859; FRL-9240-2] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11059. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to Lead Ambient Air Monitoring Requirements [EPA-HQ-OAR-2006-0735; FRL-9241-8] (RIN: 2060-AP77) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11060. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Environmental Protection

Agency Implementation of OMB Guidance on Drug-Free Workplace Requirements [Docket No.: EPA-HQ-OARM-2010-0922] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11061. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Minnesota [EPA-R05-OAR-2010-0449; FRL-9239-2] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11062. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin, The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standard [EPA-R05-OAR-2010-0850; FRL-9238-9] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11063. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Maricopa County [EPA-R09-OAR-2010-0521; FRL-9233-3] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11064. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources [EPA-HQ-OAR-2008-0334; FRL-9238-5] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11065. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Peach Springs, Arizona) [MB Docket No.: 09-204] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11066. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Fairbanks, Alaska) [MB Docket No. 10-81] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11067. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of Section 203 of the Satellite Television Extension and Localism Act of 2010 (STELA), Amendments to Section 340 of the Communications Act, Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA), Implementation of Section 340 of the Communications Act [MB Docket No.: 10-148, MB Docket No. 05-49] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11068. A letter from the Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — System Personnel Training Reliability Standards [Docket No.: RM09-25-000; Order No. 742] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11069. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Regulatory Guide 5.80: Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11070. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Regulatory Guide 3.12: General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plants received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11071. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation [NRC-2008-0404] (RIN: 3150-AI47) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11072. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Notice of Availability of the Models for Plant-Specific Adoption of Technical Specifications Task Force Traveler TSTF-514, Revision 3, ''Revise BWR Operability Requirements and Actions for RCS Leakage Instrumentation'' [NRC-2010-0150] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11073. A letter from the Secretary, Department of Commerce, transmitting a certification of export to China; to the Committee on Foreign Affairs.

11074. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 12938 [Docket No.: 101118556-0556-02] (RIN: 0694-AF05) received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

11075. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Implementation of Additional Changes from the 2009 Annual Review of the Entity List [Docket No.: 101102553-0553-01] (RIN: 0694-AF01) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

11076. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to Belarus that was declared in Executive Order 13405 of June 16, 2006; to the Committee on Foreign Affairs.

11077. A letter from the Secretary, Department of Agriculture, transmitting the Inspector General's semiannual report to Congress for the reporting period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11078. A letter from the Secretary, Department of Health and Human Services, transmitting the semiannual report from the Department of Health and Human Services Office of Inspector General for the period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11079. A letter from the Secretary, Department of Transportation, transmitting the Semiannual Report of the Office of Inspector General for the period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11080. A letter from the Auditor, Office of the District of Columbia Auditor, transmitting copy of the report entitled ''Comparative Analysis of Actual Cash Collections to the Revised Revenue Estimate Through the 3rd Quarter of Fiscal Year 2010'', pursuant to D.C. Code section 47-117(d); to the Committee on Oversight and Government Reform.

11081. A letter from the Secretary, Department of Agriculture, transmitting the Department's Performance and Accountability report for fiscal year 2010; to the Committee on Oversight and Government Reform.

11082. A letter from the Secretary, Department of Education, transmitting the forty-third Semiannual Report to Congress on Audit Follow-Up, covering the six month period ending September 30, 2010 in compliance with the Inspector General Act Amendments of 1988; to the Committee on Oversight and Government Reform.

11083. A letter from the Chief Information Officer, Department of Homeland Security, transmitting the Department's 2010 FISMA Report and Privacy Management Report; to the Committee on Oversight and Government Reform.

11084. A letter from the Assistant Secretary for Congressional Legislative Affairs, Department of Veterans Affairs, transmitting the Department's Performance and Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11085. A letter from the Secretary, Department of Veterans Affairs, transmitting that the Department's Performance and Accountability Report for Fiscal Year 2010 is available online; to the Committee on Oversight and Government Reform.

11086. A letter from the Secretary, Department of the Treasury, transmitting the Department's semiannual reports from the Office of the Treasury Inspector General and the Treasury Inspector General for Tax Administration, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11087. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the Inspector General's semiannual report to Congress for the period ending September 30, 2010; to the Committee on Oversight and Government Reform.

11088. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General of the Farm Credit Administration for the period April 1, 2010 through September 30, 2010; and the semiannual Management Report on the Status of Audits for the same period; to the Committee on Oversight and Government Reform.

11089. A letter from the Chief Financial Officer, Farm Credit Insurance Corporation, transmitting the Corporation's consolidated report addressing the Federal Managers' Financial Integrity Act and the Inspector General Act Amendments of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11090. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Oversight and Government Reform.

11091. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule —

Employee Contribution Elections and Contribution Allocations; Uniformed Services Accounts; Methods of Withdrawing Funds from the Thrift Savings Plan; Death Benefits; Thrift Savings Plan [Billing Code: 6760-01-P] received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11092. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Small Disadvantaged Business Self-Certification [FAC 2005-47; FAR Case 2009-019; Item IV; Docket 2010-0108, Sequence 1] (RIN: 9000-AL77] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11093. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Preventing Abuse of Interagency Contracts [FAC 2005-47; FAR Case 2008-032; Item III; Docket 2010-0107, Sequence 1] (RIN: 9000-AL69) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11094. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; HUBZone Program Revisions [FAC 2005-47; FAR Case 2006-005; Item II; Docket 2009-0014, Sequence 2] (RIN: 9000-AL18) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11095. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Notification of Employee Rights under the National Labor Relations Act [FAC 2005-47; FAR Case 2010-006; Item I; Docket 2010-0106, Sequence 1] (RIN: 9000-AL76) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11096. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-47; Introduction [Docket FAR 2010-0076; Sequence 9] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11097. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Uniform Suspension and Debarment Requirement [FAC 2005-47; FAR Case 2009-036; Item V; Docket 2010-0109, Sequence 1] (RIN: 9000-AL75) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11098. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Limitation on Pass-Through Charges [FAC 2005-47; FAR Case 2008-031; Item VI; Docket 2009-0034, Sequence 2] (RIN: 9000-AL27) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11099. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-47; Item VII; Docket 2010-0110, Sequence 1] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11100. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-47; Small Entity Compliance Guide [Docket FAR: 2010-0077, Sequence 9] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11101. A letter from the Chairman, National Endowment for the Arts, transmitting the Semiannual Report of the Inspector General and the Semiannual Report on Final Action Resulting from Audit Reports, Inspection Reports, and Evaluation Reports for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11102. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Absence and Leave; Sick Leave (RIN: 3206-AL91) received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11103. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Prevailing Rate Systems; Redefinition of the Chicago, IL; Fort Wayne-Marion, IN; Indianapolis, IN; Cleveland, OH; and Pittsburgh, PA, Appropriated Fund Federal Wage System Wage Areas (RIN: 3206-AM21) received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11104. A letter from the President and Cheif Executive Officer, Overseas Private Investment Corporation, transmitting the Corporation's annual financial audit for FY 2009; to the Committee on Oversight and Government Reform.

11105. A letter from the Director, Securities and Exchange Commission, transmitting the Commission's fiscal year 2010 Performance and Accountability Report; to the Committee on Oversight and Government Reform.

11106. A letter from the Administrator, Small Business Administration, transmitting the Administration's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11107. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the 2009 annual report on reasonably identifiable expenditures for the conservation of endangered or threatened species by Federal and State agencies, pursuant to 16 U.S.C. 1544; to the Committee on Natural Resources.

11108. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf-Acquire a Lease Noncompetitively [Docket ID: BOEM-2010-0045] (RIN: 1010-AD71) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11109. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — North Dakota Regulatory Program [SATS No. ND-051-FOR; Docket ID No. OSM-2009-0013] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11110. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Texas Regulatory Program [SATS No. TX-059-FOR; Docket No. OSM-2010-0001] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11111. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Montana Regulatory Program [SATS No. MT-029-FOR; Docket ID No. OSM-2008-0022] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11112. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA034) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11113. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA038) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11114. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Wildlife and Plants; Threatened Status for the Southern Distinct Population Segment of the Spotted Seal [Docket No.: 0909171277-0491-02] (RIN: 0648-XR74) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11115. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XZ67) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11116. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Blacknose Shark and Non-Blacknose Small Coastal Shark Fisheries (RIN: 0648-XZ95) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11117. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries in the Western Pacific; Community Development Program Process [Docket No.: 0907211157-0522-04] (RIN: 0648-AX76) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11118. A letter from the Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA048) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11119. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Amendments 20 and 21; Trawl Rationalization Program; Correction [Docket No.: 100212086-0354-04] (RIN: 0648-AY68) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11120. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Amendment 80 Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA031) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11121. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XZ88) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11122. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2 kg) Herring Trip Limit in Atlantic Herring Management Area 1A [Docket No.: 0907301205-0289-02] (RIN: 0648-XA039) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11123. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program [Docket No.: 080228322-91377-02] (RIN: 0648-AW24) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11124. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-01] (RIN: 0648-XZ85) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11125. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2011 [Docket No.: 900124-0127] (RIN: 0648-XZ16) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11126. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XA051) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11127. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Implementation of Regional Fishery Management Organizations' Measures Pertaining to Vessels That Engaged in Illegal, Unreported, or Unregulated Fishing Activities [Docket No.: 080228336-0435-02] (RIN: 0648-AW09) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11128. A letter from the Director of Legislative Affairs, Natural Resource Conservation Service, transmitting the Service's final rule — Grassland Reserve Program (RIN: 0578-AA53) received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11129. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Alaska Advisory Committee; to the Committee on the Judiciary.

11130. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Idaho Advisory Committee; to the Committee on the Judiciary.

11131. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the North Carolina Advisory Committee; to the Committee on the Judiciary.

11132. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Wisconsin Advisory Committee; to the Committee on the Judiciary.

11133. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Vermont Advisory Committee; to the Committee on the Judiciary.

11134. A letter from the Senior Counsel, Department of Justice, transmitting the Department's final rule — Office of the Attorney General; Certification Process for State Capital Counsel Systems; Removal of Final Rule [Docket No.: OJP 1464; AG Order No.] (RIN: 1121-AA76) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11135. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Great Mississippi Balloon Race and Fireworks Safety Zone; Lower Mississippi River, Mile Marker 365.5 to Mile Marker 363, Natchez, MS [Docket No.: USCG-2010-0873] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11136. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Sabine Bank Channel, Sabine Pass Channel and Sabine-Neches Waterway, TX [Docket No.: USCG-2009-0316] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11137. A letter from the Acting Chief, Office of Regulations and Administrative Law, Department of Homeland Security, transmitting the Department's final rule — Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments, Sector Puget Sound, WA; Correction [Docket No.: USCG-2010-0351] (RIN: 1625-ZA25) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11138. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ledge Removal Project, Bass Harbor, Maine [Docket No.: USCG-2010-0806] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11139. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Vessel Traffic Service Lower Mississippi River [Docket No.: USCG-1998-4399] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11140. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Epic Roasthouse Private Party Firework Display, San Francisco, CA [Docket No.: USCG-2010-0901] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11141. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Natchez Fireworks Safety Zone; Lower Mississippi River, Mile Marker 365.5 to Mile Marker 363, Natchez, MS [Docket No.: USCG-2010-0872] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11142. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Wrightsville Channel, Wrightsville Beach, NC [Docket No.: USCG-2010-0813] (RIN: 1625-AA08) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11143. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Arkansas Waterway, Pine Bluff, AR [Docket No.: USCG-2010-0441] (RIN: 1625-AA09) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11144. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Temporary Change of Date for Recurring Fireworks Display within the Fifth Coast Guard District; Wrightsville Beach, NC [Docket No.: USCG-2010-0927] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11145. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone, in the vicinity of the Michoud Slip Position 30 degrees 0′34.2″ N, 89 degrees 55′40.7″ W to Position 30 degrees 0′29.5″ N, 89 degrees 55′52.6″ W [Docket No.: USCG-2010-0846] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11146. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Green Bridge Demolition, Lower Mississippi River Mile 531.3, AR, MS [USCG-2010-0693] (RIN: 1625-AA11) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11147. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety

Zone: Monte Foundation Firework Display, Monterey, CA [Docket No.: USCG-2010-0620] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11148. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Shipping; Technical, Organizational, and Conforming Amendments [Docket No.: USCG-2010-0759] (RIN: 1625-ZA27) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11149. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; CLS Fall Championship Hydroplane Race, Lake Sammamish, WA [Docket No.: USCG-2010-0842] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11150. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report on the administration of the Surface Transportation Project Delivery Pilot Program, pursuant to Public Law 109-59, section 6005(h); to the Committee on Transportation and Infrastructure.

11151. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (Eurocopter) Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 Helicopters [Docket No.: FAA-2010-1082; Directorate Identifier 2009-SW-041-AD; Amendment 39-16491; AD 2010-23-02] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11152. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Austro Engine GmbH Model E4 Diesel Piston Engines [Docket No.: FAA-2010-1055; Directorate Identifier 2010-NE-35-AD; Amendment 39-16498; AD 2010-23-09] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11153. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CT7-9C and -9C3 Turboprop Engines [Docket No.: FAA-2010-0732; Directorate Identifier 2010-NE-04-AD; Amendment 39-16509; AD 2010-23-20] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11154. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC-7 Airplanes [Docket No.: FAA-2010-0699; Directorate Identifier 2009-NM-236-AD; Amendment 39-16510; AD 2010-23-21] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11155. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters [Docket No.: FAA-2010-1126; Directorate Identifier 2010-SW-078-AD; Amendment 39-16515; AD 2010-18-52] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11156. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-70A and S-70C Helicopters [Docket No.: FAA-2010-0490; Directorate Identifier 2010-SW-037-AD; Amendment 39-16514; AD 2010-23-24] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11157. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (Eurocopter) Model AS332L2 Helicopters [Docket No.: FAA-2010-1125; Directorate Identifier 2008-SW-40-AD; Amendment 39-16512; AD 2010-23-22] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11158. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 206L, 206L-1, and 206L-3 Helicopters [Docket No.: FAA-2010-1242; Directorate Identifier 96-SW-13-AD; Amendment 39-16511; AD 96-18-05 R1] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11159. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 777-200, -200LR, -300, and -300ER Series Airplanes [Docket No.: FAA-2010-0376; Directorate Identifier 2009-NM-267-AD; Amendment 39-16504; AD 2010-23-15] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11160. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 & 440), CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2010-0223; Directorate Identifier 2009-NM-105-AD; Amendment 39-16503; AD 2010-23-14] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11161. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Accommodation and Food Services Industries (RIN: 3245-AF71) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11162. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Immediate Disaster Assistance Program [SBA-2010-0010] (RIN: 3245-AG00) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11163. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Other Services (RIN: 3245-AF70) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11164. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards: Retail Trade (RIN: 3245-AF69) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11165. A letter from the Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Payment for Inpatient and Outpatient Health Care Professional Services at Non-Departmental Facilities and Other Medical Charges Associated with Non-VA Outpatient Care (RIN: 2900-AN37) received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11166. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates [Notice 2010-93] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11167. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Application for Approval of Extension of Amortization Period (Rev. Proc. 2010-52) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11168. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2010 Base Period T-Bill Rate (Rev. Rul. 2010-28)received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11169. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Source of Income from Qualified Fails Charges [TD: 9508] (RIN: 1545-BJ85) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11170. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Tier II Issue — Industry Director Directive #2 on the Proper Treatment of Upfront Fees, Milestone Payments, Royalities and Deferred Income upon entering into a Collaboration Agreement in the Biotech and Pharmaceutical Industries [LB&I Control No.: 4-1110-031] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11171. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rules for Group Trusts (Rev. Rul. 2011-1) received December 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11172. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Publication of the Tier 2 Tax Rates [4830-01-p] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11173. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2011 Standard Mileage Rates [Notice 2010-88] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11174. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Standard Mileage Rate Procedures (Rev. Proc. 2010-51) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11175. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Requirement of a Statement Disclosing Uncertain Tax Positions [TD 9510] (RIN: 1545-BJ54) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11176. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Farmer and Fisherman Income Averaging [TD 9509] (RIN: 1545-BE23) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11177. A letter from the Branch Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — 2011 Section 1274A CPI Adjustments (Rev. Rul. 2010-30) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11178. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Jerome R. Vainisi and Deloris L. Vainisi v. Commissioner, 599 F.3d 567 (7th Cir. 2010, rev'g 132 T.C. No. 1 (2009) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11179. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Definition of Omission from Gross Income [TD 9511] (RIN: 1545-BI44) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11180. A letter from the Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2010 Cumulative List of Changes in Plan Qualification Requirements [Notice 2010-90] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11181. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Applicable Federal Rates — January 2011 (Rev. Rul. 2011-2) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11182. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Funding Relief for Single-Employer Pension Plans under PRA 2010 [Notice 2011-3] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11183. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting a letter of notification from the Government of Spain requesting that the United States Government contribute to a cleanup of plutonium contamination in Spain; jointly to the Committees on Foreign Affairs and the Judiciary.

11184. A letter from the Director, Office of Insular Affairs, Department of the Interior, transmitting the Department's report to Congress '2010 Analysis of Compact Impacts'; jointly to the Committees on Natural Resources and Foreign Affairs.

11185. A letter from the Director, Office of Regulations, Social Security Administration, transmitting the Administration's final rule — Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Beneficiaries' Prescription Drug Coverage Premiums [Docket No.: SSA-2010-0029] (RIN: 0960-AH22) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

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. BRADY of Pennsylvania: Committee on House Administration. H.R. 6116. A bill to reform the financing of House elections, and for other purposes (Rept. 111–691, Pt. 1). Ordered to be printed.

Mr. McGOVERN: Committee on Rules. House Resolution 1781. Resolution providing for consideration of the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; providing for consideration of the senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; and providing for consideration of the Senate amendment to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvements officers and the Performance Improvement Council (Rept. 111–692). Referred to the House Calendar.

Mr. CONYERS: Committee on the Judiciary. H.R. 2811. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal: with an amendment (Rept. 111–693). Referred to the Committee of the Whole House on the State of the Union.

Mr. POLIS: Committee on Rules. House Resolution 1782. Resolution providing for consideration of the Senate amendment to the House amendment to the Senate 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 30, 2010, and for other purposes (Rept. 111–694). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILLS

Pursuant to clause 2 of rule XII the following actions were taken by the Speaker:

H.R. 1064. Referral to the Committees on Education and Labor, Energy and Commerce, and Financial Services extended for a period ending not later than December 22, 2010.

H.R. 1174. Referral to the Committee on Homeland Security extended for a period ending not later than December 22, 2010.

H.R. 1425. Referral to the Committee on Appropriations extended for a period ending not later than December 22, 2010.

H.R. 3376. Referral to the Committees on the Judiciary and Homeland Security extended for a period ending not later than December 22, 2010.

H.R. 4678. Referral to the Committees on Ways and Means and Agriculture extended for a period ending not later than December 22, 2010.

H.R. 5105. Referral to the Committee on Agriculture extended for a period ending not later than December 22, 2010.

H.R. 5498. Referral to the Committee on Energy and Commerce extended for a period ending not later than December 22, 2010.

H.R. 6116. Referral to the Committee on Energy and Commerce extended for a period ending not later than December 22, 2010.

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. JOHNSON of Georgia:

H.R. 6560. A bill to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on the Budget, 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 Ms. RICHARDSON:

H.R. 6561. A bill to establish the History is Learned from the Living grant program to enable communities to learn about historical events in the United States in the past century through the oral histories of community members who participated in those events, and for other purposes; to the Committee on Natural Resources.

By Ms. CORRINE BROWN of Florida:

H.R. 6562. A bill to revitalize home ownership by establishing a shared equity appreciation homeownership pilot program; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, 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. HOLT:

H.R. 6563. A bill to establish a national leadership initiative to promote and coordinate knowledge utilization in education to increase student achievement consistent with the objectives of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. INSLEE (for himself and Mr. CASTLE):

H.R. 6564. A bill to promote the oil independence of the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, the Budget, Science and Technology, Oversight and Government Reform, and Natural Resources, 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 Ms. JACKSON LEE of Texas (for herself, Mr. CONYERS, Mr. PAYNE, Mr. McGOVERN, and Mr. CLEAVER):

H.R. 6565. A bill to improve efforts of the United States Government to ensure that developing countries have affordable and equitable access to safe water and sanitation, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KING of New York (for himself and Mrs. LOWEY):

H.R. 6566. A bill to protect children from registered sex offenders, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, 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 Mrs. MALONEY:

H.R. 6567. A bill to amend title 38, United States Code, to improve and make permanent the Department of Veterans Affairs loan guarantee for the purchase of residential cooperative housing units, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY of Massachusetts (for himself and Ms. CASTOR of Florida):

H.R. 6568. A bill to amend the Oil Pollution Act of 1990 to facilitate the ability of persons affected by oil spills to seek judicial redress; to the Committee on Transportation and Infrastructure.

By Ms. LINDA T. SÁNCHEZ of California:

H.R. 6569. A bill to amend title II of the Social Security Act to provide for treatment of permanent partnerships between individuals of the same gender as marriage for purposes of determining entitlement to benefits under such title; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 221: Mr. MANZULLO, Mr. HUNTER, Mr. LAMBORN, Mr. BUCHANAN, Mr. PITTS, and Mrs. BACHMANN.

H.R. 503: Mr. CALVERT.

H.R. 891: Ms. RICHARDSON.

H.R. 1237: Mrs. NAPOLITANO.

H.R. 1549: Mr. LIPINSKI.

H.R. 1844: Mr. PRICE of North Carolina.

H.R. 1966: Ms. NORTON.

H.R. 2030: Mr. DEFAZIO and Mr. SHERMAN.

H.R. 3586: Ms. MOORE of Wisconsin.

H.R. 4278: Mr. FATTAH.

H.R. 4808: Mr. PRICE of North Carolina.

H.R. 5117: Mrs. DAVIS of California.

H.R. 5434: Mr. JOHNSON of Georgia and Mr. BRALEY of Iowa.

H.R. 5510: Mr. LEWIS of Georgia and Mr. JOHNSON of Georgia.

H.R. 6073: Mr. PAYNE and Mr. TIM MURPHY of Pennsylvania.

H.R. 6123: Mrs. MALONEY.

H.R. 6240: Mr. CAMPBELL.

H.R. 6334: Ms. WOOLSEY, Mr. KUCINICH, and Mr. RUSH.

H.R. 6355: Mr. PRICE of North Carolina.

H.R. 6511: Mr. PAUL.

H.R. 6547: Mr. HOLT.

H.R. 6548: Mr. HASTINGS of Florida.

H.R. 6556: Mr. CONYERS, Mr. LOEBSACK, and Mr. HASTINGS of Florida.

H.J. Res. 96: Mr. LUETKEMEYER.

H.J. Res. 102: Mr. BROUN of Georgia.

H. Res. 762: Mr. CONNOLLY of Virginia, Mr. DELAHUNT, and Mr. POLIS.

H. Res. 1722: Mrs. MALONEY.

H. Res. 1768: Ms. DELAURO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 1762: Mr. WOLF.

PETITIONS, ETC.

Under clause 3 of rule XII,

180. The SPEAKER presented a petition of Mr. Gregory D. Watson, a Citizen of Austin, Texas, relative to a petition urging Congress to enact statutory legislation which would clarify the procedures for proposing an amendment to the United States Constitution; which was referred to the Committee on the Judiciary.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, TUESDAY, DECEMBER 21, 2010 No. 172

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

God, creator of us all, during this season of goodwill, bring peace to this Chamber. Make strong in the hearts of all our Senators what unites them. Build bridges across all that divides them, so that they will respect their differences while working together to keep our Nation secure. Remove the divisions that drive wedges of rancor between them, and lead them away from the confrontational to a concord that seeks mutual progress. May this unity not be obtained at the price of compromising truth, but by the devotion with which each lawmaker passionately loves this Nation and sincerely seeks to keep it strong and free.

Today, let truth prevail over distortion, wisdom triumph over recklessness, and faith vanquish fear.

We pray in Your merciful Name. Amen.

NOTICE

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

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

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

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

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–59.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the *Congressional Record* may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 21, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a

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

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Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN 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. Madam President, following leader remarks, Senator ALEXANDER will be recognized to speak in morning business for up to 10 minutes. Following his remarks, the Senate will resume consideration of the House message with respect to H.R. 3082, the continuing resolution. There will be 10 minutes of debate for Senator INOUYE and 15 minutes for Senator MCCAIN prior to that vote. Therefore, Senators should expect a vote to begin about 10:15 on the motion to invoke cloture on the motion to concur to the House amendment to the Senate amendment to H.R. 3082, with amendment No. 4885, which is the text of the continuing resolution that funds the government through March 4, 2011.

If cloture is invoked, I will work with the Republican leader on a time to complete action on the CR. It is important to send it over to the House very quickly so they have sufficient time to pass it before funding runs out this evening at midnight.

Upon disposition of the CR, the Senate will proceed to vote on the motion to invoke cloture on the New START treaty.

Last week, we were able to lock in a time agreement to consider two district judge nominations. It is my hope we will be able to debate and vote on those judges this afternoon.

Senators will be notified when any votes are scheduled.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized in morning business for up to 10 minutes.

NEW START TREATY

Mr. ALEXANDER. Madam President, I will vote to ratify the New START treaty between the United States and Russia because it leaves our country with enough nuclear warheads to blow any attacker to kingdom come and because the President has committed to an $85 billion 10-year plan to make sure those weapons work. I will vote for the treaty because it allows for inspection of Russian warheads and because our military leaders say it does nothing to interfere with the development of a missile defense system.

I will vote for the treaty because the last six Republican Secretaries of State support its ratification. In short, I am convinced that Americans are safer and more secure with the New START treaty than without it. Last week, I joined Senators INOUYE, COCHRAN, and FEINSTEIN in a letter to the President stating that we will vote to ratify the treaty and to appropriate funds to modernize our outdated nuclear weapons facilities and that he, the President, requests those funds in his budget.

Last night, I received a response to the President saying he would do so. I ask unanimous consent to have printed both letters in the RECORD.

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

U.S. SENATE,
Washington, DC, December 16, 2010.

THE WHITE HOUSE,
1600 Pennsylvania Avenue, NW,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for ratification of the New START Treaty and full funding for the modernization of our nuclear weapons arsenal, as outlined by your updated report that was mandated by Section 1251 of the Defense Authorization Act for Fiscal Year 2010.

We also ask that, in your future budget requests to Congress, you include the funding identified in that report on nuclear weapons modernization. Should you choose to limit non-defense discretionary spending in any future budget requests to Congress, funding for nuclear modernization in the National Nuclear Security Agency's proposed budgets should be considered defense spending, as it is critical to national security and, therefore, not subject to such limitations. Further, we ask that an updated 1251 report be submitted with your budget request to Congress each year.

We look forward to working with you on the ratification of the New START Treaty and modernization of the National Nuclear Security Agency's nuclear weapons facilities. This represents a long-term commitment by each of us, as modernization of our nuclear arsenal will require a sustained effort.

Sincerely,

DANIEL INOUYE.
DIANNE FEINSTEIN.
THAD COCHRAN.
LAMAR ALEXANDER.

THE WHITE HOUSE,
Washington DC, December 20, 2010.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: Thank you for your letter regarding funding for the modernization of the nuclear weapons complex and for your expression of support for ratification of the New START Treaty.

As you know, in the Fiscal Year 2011 budget, I requested a nearly 10 percent increase in the budget for weapons activities at the National Nuclear Security Administration (NNSA). In May, in the report required by Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, I laid out a 10 year, $80 billion spending plan for NNSA. The Administration submitted an update to that report last month, and we now project over $85 billion in spending over the next decade.

I recognize that nuclear modernization requires investment for the long-term, in addition to this one-year budget increase. That is my commitment to the Congress—that my Administration will pursue these programs and capabilities for as long as I am President.

In future years, we will provide annual updates to the 1251 report. If a decision is made to limit non-defense discretionary spending in any future budget requests, funding for nuclear modernization in the NNSA weapons activities account will be considered on the same basis as defense spending.

In closing, I thought it important for you to know that over the last two days, my Administration has worked closely with officials from the Russian Federation to address our concerns regarding North Korea. Because of important cooperation like this, I continue to hope that the Senate will approve the New START Treaty before the 111th Congress ends.

Sincerely,

BARACK OBAMA.

Mr. ALEXANDER. Madam President, why are these two so necessarily linked—the treaty and the plan for nuclear weapons modernization? The answer is, if we are going to reduce our number of warheads, we want to make sure we are not left with what amounts to a collection of wet matches. Defense Secretary Gates said:

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

In a November 24 statement, Senators KYL and CORKER said they ''could not support reductions in U.S. nuclear forces unless there is adequate attention to modernizing those forces and the infrastructure that supports them.''

Senators KYL and CORKER deserve credit for untiring efforts to fund properly nuclear modernization. President Obama deserves credit for updating the nuclear modernization plan in such a significant way.

I have reviewed that so-called ''1251 plan'' completed November 17 of this year, which calls for spending $85 billion over the next 10 years. I have visited our outdated nuclear weapons facilities. I am convinced the plan's implementation will make giant steps toward modernization of those facilities so that we—and our allies and adversaries—can be assured that the weapons will work if needed.

The President's statement that he will ask for these funds and the support of senior members of the Appropriations Committee means that the plan is more likely to become a reality. The President agrees that in tight budgets these funds should be considered as defense spending.

I ask unanimous consent to have printed in the RECORD a summary of the appropriations recommended by

the plan mandated by section 1251 of the 2010 Defense authorization bill.

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

3. Summary of NNSA Stockpile and Infrastructure Costs

A summary of estimated costs specifically related to the Nuclear Weapons Stockpile, the supporting infrastructure, and critical science, technology and engineering is provided in Table 1.

TABLE 1—TEN-YEAR PROJECTIONS FOR WEAPONS STOCKPILE AND INFRASTRUCTURE COSTS

$ Billions	Fiscal Year										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Directed Stockpile	1.5	1.9	2.0	2.1	2.3	2.5	2.6	2.6	2.6	2.6	2.6
Science Technology & Engineering Campaigns	1.6	1.7	1.8	1.8	1.8	1.8	1.9	2.0	2.1	2.2	2.3
Readiness in Technical Base and Facilities	1.8	1.8	2.1	2.3	2.5	2.5	2.5	2.7	2.8–2.9	2.9–3.1	2.9–3.3
UPF	0.1	0.1	0.2	0.2	0.4	0.4	0.4	0.48–0.5	0.48–0.5	0.48–0.5	0.38–0.5
CMRR	0.1	0.2	0.3	0.3	0.4	0.4	0.4	0.48–0.5	0.4–0.5	03.–0.5	02.–0.5
Secure Transportation	0.2	0.2	0.3	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Defense Programs Subtotal	5.2	5.7	6.1	6.5	6.9	7.1	7.3	7.5–7.6	7.7–7.9	7.9–8.2	8.0–8.4
Other Weapons	1.2	1.3	1.3	1.3	1.3	1.3	1.4	1.4	1.4	1.4	1.5
Subtotal, Weapons	6.4	7.0	7.4	7.8	8.2	8.5	8.7	8.9–9.0	9.2–9.3	9.4–9.6	9.4–9.8
Contractor Pensions Cost Growth	.....	.....	0.2	0.2	0.2	0.2	0.2	*	*	*	*
Total, Weapons	6.4	7.0	7.6	7.9	8.4	8.7	8.9	8.9–9.0	9.2–9.3	9.4–9.6	9.4–9.8

Numbers may not add due to rounding.

*Anticipated costs for contractor pensions have been calculated only through FY 2016. For FY 2017–2020, uncertainties in market performance, interest rate movement, and portfolio management make prediction of actual additional pension liabilities, assets, and contribution requirements unreliable.

Mr. ALEXANDER. Madam President, I will offer an amendment at the appropriate time to the resolution of ratification to require an annual update of the 1251 report, which the President's letter says he will do.

Under the terms of the treaty, the United States may have 1,550 deployed strategic nuclear weapons, each one up to 30 times more powerful than the one used at Hiroshima to end World War II.

The United States will also gain valuable data, including through inspection operations that should provide a treasure trove of intelligence about Russian activities that we would not have without the treaty, and that we have not had since the START treaty expired on December 9, 2009.

Over the weekend, the President sent a letter to the Senate reaffirming ''the continued development and deployment of U.S. missile defense systems.'' There is nothing within the treaty itself—I emphasize ''nothing in the treaty''—that would hamper the development of missile defense or its deployment. Our military and intelligence leaders all have said that.

Obviously, something could happen down the road involving differences over missile defense systems that could require either country—Russia or the United States—to withdraw from the treaty. That is any sovereign country's right with any treaty. In 2002, President Bush withdrew from the Anti-Ballistic Missile Treaty because of our desire to pursue missile defenses to protect us from an attack by a rogue state.

Madam President, I ask unanimous consent to have printed in the RECORD the President's letter on missile defense.

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

THE WHITE HOUSE,
Washington, DC, December 18, 2010.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: As the Senate considers the New START Treaty, I want to share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

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

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

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

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

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

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

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

Regardless of Russia's actions in this regard, as long as I am President, and as long

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

Sincerely,

BARACK OBAMA.

Mr. ALEXANDER. Madam President, ratifying this treaty would extend the policies of President Nixon, President Reagan, President George H.W. Bush, President George W. Bush, as well as Democratic Presidents.

I ask unanimous consent to have printed in the RECORD the statements of the last six Republican Secretaries of State, all of whom support ratification of the treaty.

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

[From the Washington Post, Dec. 2, 2010]

THE REPUBLICAN CASE FOR RATIFYING NEW START

(By Henry A. Kissinger, George P. Shultz, James A. Baker III, Lawrence S. Eagleburger, and Colin L. Powell)

Republican presidents have long led the crucial fight to protect the United States against nuclear dangers. That is why Presidents Richard Nixon, Ronald Reagan and George H.W. Bush negotiated the SALT I, START I and START II agreements. It is why President George W. Bush negotiated the Moscow Treaty. All four recognized that reducing the number of nuclear arms in an open, verifiable manner would reduce the risk of nuclear catastrophe and increase the stability of America's relationship with the Soviet Union and, later, the Russian Federation. The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

As a result, we urge the Senate to ratify the New START treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago. It reduces the number of nuclear weapons that each side deploys while enabling the United States to maintain a strong nuclear deterrent and preserving the flexibility to deploy those forces as we see fit. Along with our obligation to protect the homeland, the United States has responsibilities to allies around the world.

The commander of our nuclear forces has testified that the 1,550 warheads allowed under this treaty are sufficient for all our missions—and seven former nuclear commanders agree. The defense secretary, the chairman of the Joint Chiefs of Staff and the head of the Missile Defense Agency—all originally appointed by a Republican president—argue that New START is essential for our national defense.

We do not make a recommendation about the exact timing of a Senate ratification vote. That is a matter for the administration and Senate leaders. The most important thing is to have bipartisan support for the treaty, as previous nuclear arms treaties did.

Although each of us had initial questions about New START, administration officials have provided reasonable answers. We believe there are compelling reasons Republicans should support ratification.

First, the agreement emphasizes verification, providing a valuable window into Russia's nuclear arsenal. Since the original START expired last December, Russia has not been required to provide notifications about changes in its strategic nuclear arsenal, and the United States has been unable to conduct on-site inspections. Each day, America's understanding of Russia's arsenal has been degraded, and resources have been diverted from national security tasks to try to fill the gaps. Our military planners increasingly lack the best possible insight into Russia's activity with its strategic nuclear arsenal, making it more difficult to carry out their nuclear deterrent mission.

Second, New START preserves our ability to deploy effective missile defenses. The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans. Although the treaty prohibits the conversion of existing launchers for intercontinental and submarine-based ballistic missiles, our military leaders say they do not want to do that because it is more expensive and less effective than building new ones for defense purposes.

Finally, the Obama administration has agreed to provide for modernization of the infrastructure essential to maintaining our nuclear arsenal. Funding these efforts has become part of the negotiations in the ratification process. The administration has put forth a 10–year plan to spend $84 billion on the Energy Department's nuclear weapons complex. Much of the credit for getting the administration to add $14 billion to the originally proposed $70 billion for modernization goes to Sen. Jon Kyl, the Arizona Republican who has been vigilant in this effort. Implementing this modernization program in a timely fashion would be important in ensuring that our nuclear arsenal is maintained appropriately over the next decade and beyond.

Although the United States needs a strong and reliable nuclear force, the chief nuclear danger today comes not from Russia but from rogue states such as Iran and North Korea and the potential for nuclear material to fall into the hands of terrorists. Given those pressing dangers, some question why an arms control treaty with Russia matters. It matters because it is in both parties' interest that there be transparency and stability in their strategic nuclear relationship. It also matters because Russia's cooperation will be needed if we are to make progress in rolling back the Iranian and North Korean programs. Russian help will be needed to continue our work to secure ''loose nukes'' in Russia and elsewhere. And Russian assistance is needed to improve the situation in Afghanistan, a breeding ground for international terrorism.

Obviously, the United States does not sign arms control agreements just to make friends. Any treaty must be considered on its merits. But we have here an agreement that is clearly in our national interest, and we should consider the ramifications of not ratifying it.

Whenever New START is brought up for debate, we encourage all senators to focus on national security. There are plenty of opportunities to battle on domestic political issues linked to the future of the American economy. With our country facing the dual threats of unemployment and a growing federal debt bomb, we anticipate significant conflict between Democrats and Republicans. It is, however, in the national interest to ratify New START.

Mr. ALEXANDER. Madam President, I will vote to ratify this treaty. The vote we are about to have today is about whether to end debate. The majority's decision to jam through other matters during this lameduck session has poisoned the well, driven away Republican votes, and jeopardized ratification of this important treaty.

Nevertheless, this treaty was presented in the Senate on May 13, after 12 hearings in two committees and many briefings. The Foreign Relations Committee reported the treaty to the Senate on September 16 in a bipartisan vote of 14 to 4. For several months, there have been intense negotiations to develop a realistic plan and the funding for nuclear modernization. That updated plan was reported on November 17. The Senate voted to proceed to the treaty last Wednesday. I voted no because I thought there should still be more time allowed for amendment and debate.

Despite the flawed process, I believe the treaty and the nuclear modernization plan make our country safer and more secure. It will allow us to resume inspection and verification of disarmament of nuclear weapons in Russia. The head of our missile defense system says the treaty will not hamper our missile development program—and if it does, we can withdraw from the treaty.

All six former Republican Secretaries of State support ratification of this treaty. Therefore, I will vote to ratify the New START treaty and during the next several years vote to fund the nuclear modernization plan.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 3082, which the clerk will report.

The bill clerk read as follows:

Motion to concur in the House amendment to the Senate amendment, with an amendment to H.R. 3082, an act making appropriations for military construction, Department of Veteran Affairs and Related Agencies, for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4885 (to the House amendment to the Senate amendment), of a perfecting nature.

Reid amendment No. 4886 (to amendment No 4885), to change the enactment date.

Reid motion to refer the message of the House on the bill to the Committee on Apropriations, with instructions, Reid amendment No. 4887, to provide for a study.

Reid amendment No. 4888 (to (the instructions) amendment No. 4887), of a perfecting nature.

Reid amendment No. 4889 (to amendment No. 4888) of a perfecting nature.

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

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

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

NET NEUTRALITY RULES

Mr. MCCONNELL. Madam President, later today the Federal Communications Commission is expected to approve new rules on how Americans access information on the Internet. There are a lot of people rightly concerned. The Internet has transformed our society, our economy, and the very way we communicate with others. It has served as a remarkable platform for innovation at the end of the 20th century and now at the beginning of the 21st century. All of this has been made possible because people have been free to create and to innovate, to push the limits of invention free from government involvement.

Now that could soon change. Today, the Obama administration, which has already nationalized health care, the auto industry, insurance companies, banks, and student loans, will move forward with what could be a first step in controlling how Americans use the Internet by establishing Federal regulations on its use. This would harm investment, stifle innovation, and lead to job losses. That is why I, along with several of my colleagues, have urged the FCC Chairman to abandon this flawed approach. The Internet is an invaluable resource. It should be left alone.

As Americans become more aware of what is happening here, I suspect many will be as alarmed as I am at the government's intrusion. They will wonder, as many already do, if this is a Trojan horse for further meddling by the government. Fortunately, we will have an opportunity in the new Congress to push back against new rules and regulations.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BROWN of Ohio. I thank the Chair.

Mr. INOUYE. Madam President, today the Senate will consider a 73-day continuing resolution, which will fund the government through March 4 of next year. This is a clean CR that is $1 billion above the spending level for fiscal year 2010. It meets the most basic needs of the Federal Government, and will allow Congress the time necessary to reconsider a funding bill next year. Most importantly, this temporary funding measure will avoid a government shutdown, which would be a terrible thing for the American people. That is the last thing any responsible Member of this body should wish for.

As I have previously stated, it is deeply unfortunate that we were unable to take up and pass the omnibus bill. An omnibus, as opposed to a CR, assumed responsibility for the spending decisions that are the most basic responsibility of Congress. I regret that our colleagues on the other side of the aisle, many of whom helped to craft the omnibus, failed to support it in the end. It was a far superior alternative to this short-term CR. The omnibus better protected our national security and would have brought a responsible conclusion to the fiscal year 2011 appropriations process.

The CR we have before us allows for a limited number of adjustments for programs that would lose either their funding or their authorization between now and March 4. The CR will also prevent the layoff of thousands of Federal workers and contractors during the holiday season.

When the 112th Congress convenes in January, I hope the Senate and the House will find a way to move forward in a responsible manner to conclude work on the fiscal year 2011 appropriations process. To do so, we will require a good-faith effort from Members of both parties to reach reasonable compromises on a range of issues. I hope that despite the current political environment, we can find a way to work together to fund critical priorities that will strengthen our economy and protect our Nation's security. That is what the American people expect of us, and they deserve no less. But for now, I urge my colleagues to support this 10-week continuing resolution.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 motion to concur in the House amendment to the Senate amendment to H.R. 3082, the Full Continuing Appropriations Act, with an amendment.

Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Richard J. Durbin, Mark L. Pryor, Robert Menendez, Amy Klobuchar, Patty Murray, Kay R. Hagan, Christopher J. Dodd, Daniel K. Inouye, Mark Begich, Al Franken, Robert P. Casey, Jr., Tom Carper.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to the Senate amendment to H.R. 3082, with amendment No. 4885, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. GREGG).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 82, nays 14, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—82

Akaka	Feinstein	Mikulski
Alexander	Franken	Murkowski
Barrasso	Gillibrand	Murray
Baucus	Graham	Nelson (FL)
Begich	Grassley	Pryor
Bennet	Hagan	Reed
Bennett	Harkin	Reid
Bingaman	Hutchison	Roberts
Bond	Inouye	Rockefeller
Boxer	Johanns	Sanders
Brown (MA)	Johnson	Schumer
Brown (OH)	Kerry	Sessions
Bunning	Kirk	Shaheen
Cantwell	Klobuchar	Shelby
Cardin	Kohl	Snowe
Carper	Kyl	Specter
Casey	Landrieu	Stabenow
Cochran	Lautenberg	Tester
Collins	Leahy	Thune
Conrad	Levin	Udall (CO)
Coons	Lieberman	Udall (NM)
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Dodd	Manchin	Webb
Dorgan	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Ensign	Menendez	
Enzi	Merkley	

NAYS—14

Burr	Feingold	McCain
Chambliss	Hatch	Nelson (NE)
Coburn	Inhofe	Risch
Crapo	Isakson	Vitter
DeMint	LeMieux	

NOT VOTING—4

Bayh	Gregg
Brownback	Wyden

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 82, the nays are 14. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, if I could have the attention of the Senators, I have had a number of conversations with the Republican leader today. The collective goal is to move forward with the schedule as we know what it is. Senator MCCAIN has 15 minutes, Senator INOUYE has 10 minutes, and the farewell speech of our friend Senator SPECTER is going to be this morning. We hope to have agreement that at around 2 o'clock today, we will vote on a couple of judges. We will vote on the motion to concur on the continuing resolution and vote on cloture on the treaty. We don't have that down in writing yet, but that is the goal, so everyone understands. We will have four to five votes this afternoon around 2 o'clock. That would point us toward the final surge on this most important treaty. I had conversations with Senator KERRY and Senator KYL this morning. I think there is a way clear to complete this sometime tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

FAREWELL TO THE SENATE

CLOSING ARGUMENT

Mr. SPECTER. Madam President, this is not a farewell address but, rather, a closing argument to a jury of my colleagues and the American people outlining my views on how the Senate and, with it, the Federal Government arrived at its current condition of partisan gridlock, and my suggestions on where we go from here on that pressing problem and the key issues of national and international importance.

To make a final floor statement is a challenge. The Washington Post noted the poor attendance at my colleagues' farewell speeches earlier this month. That is really not surprising since there is hardly anyone ever on the Senate floor. The days of lively debate with many Members on the floor are long gone. Abuse of the Senate rules has pretty much stripped Senators of the right to offer amendments. The modern filibuster requires only a threat and no talking. So the Senate's activity for more than a decade has been the virtual continuous drone of a quorum call. But that is not the way it was when Senator CHRIS DODD and I were privileged to enter the world's greatest deliberative body 30 years ago. Senators on both sides of the aisle engaged in collegial debate and found ways to find common ground on the Nation's pressing problems.

When I attended my first Republican moderates luncheon, I met Mark Hatfield, John Chafee, Ted Stevens, Mac Mathias, Bob Stafford, Bob Packwood, Chuck Percy, Bill Cohen, Warren Rudman, Alan Simpson, Jack Danforth, John Warner, Nancy Kassebaum, Slade Gorton, and I found my colleague John Heinz there. That is a far cry from later years when the moderates could fit into a telephone booth.

On the other side of the aisle, I found many Democratic Senators willing to move to the center to craft legislation—Scoop Jackson, JOE BIDEN, DAN INOUYE, Lloyd Bentsen, Fritz Hollings, PAT LEAHY, Dale Bumpers, David Boren, Russell Long, Pat Moynihan, George Mitchell, Sam Nunn, Gary Hart, Bill Bradley, and others. They were carrying on the Senate's glorious tradition.

The Senate's deliberate cerebral procedures have served our country well. The Senate stood tall in 1805 in acquitting Supreme Court Justice Samuel Chase in impeachment proceedings and thus preserved the independence of the Federal judiciary. The Senate stood tall in 1868 to acquit President Andrew Johnson in impeachment proceedings, and that preserved the power of the Presidency. Repeatedly in our 223-year history, the Senate has cooled the passions of the moment to preserve the institutions embodied in our Constitution which have made the United States the envy of the world.

It has been a great privilege to have had a voice for the last 30 years in the great decisions of our day: how we allocate our resources among economic development, national defense, education, environmental protection, and NIH funding; the Senate's role in foreign policy as we exercise it now on the START treaty; the protection of civil rights, as we demonstrated last Saturday, eliminating don't ask, don't tell; balancing crime control and defendants' rights; and how we have maintained the quality of the Federal judiciary, not only the high-profile 14 Supreme Court nominations I have participated in but the 112 Pennsylvanians who have been confirmed during my tenure on the Federal district courts or the Third Circuit.

On the national scene, top issues are the deficit and the national debt. The deficit commission has made a start. When raising the debt limit comes up next year, that will present an occasion to pressure all parties to come to terms on future taxes and expenditures, to realistically deal with these issues.

The Next Congress should try to stop the Supreme Court from further eroding the constitutional mandate of separation of powers. The Supreme Court has been eating Congress's lunch by invalidating legislation with judicial activism after nominees commit under oath in confirmation proceedings to respect congressional factfinding and precedents. That is stare decisis. The recent decision in Citizens United is illustrative. Ignoring a massive congressional record and reversing recent decisions, Chief Justice Roberts and Justice Alito repudiated their confirmation testimony given under oath and provided the key votes to permit corporations and unions to secretly pay for political advertising, thus effectively undermining the basic democratic principle of the power of one person, one vote. Chief Justice Roberts promised to just call balls and strikes. Then he moved the bases.

Congress's response is necessarily limited in recognition of the importance of judicial independence as the foundation of the rule of law, but Congress could at least require televising the Court proceedings to provide some transparency to inform the public about what the Court is doing since it has the final word on the cutting issues of the day. Brandeis was right when he said that sunlight is the best disinfectant.

The Court does follow the election returns, and the Court does judicially notice societal values as expressed by public opinion. Polls show that 85 percent of the American people favor televising the Court when told that a citizen can only attend an oral argument for 3 minutes in a chamber holding only 300 people. Great Britain, Canada, and State supreme courts permit television.

Congress has the authority to legislate on this subject, just as Congress decides other administrative matters such as what cases the Court must hear, time limits for decisions, number of Justices, the day the Court convenes, and the number required for a quorum. While television cannot provide a definitive answer, it could be significant and may be the most that can be done consistent with life tenure and judicial independence.

Additionally, I urge Congress to substantially increase funding for the National Institutes of Health. When NIH funding was increased from $12 to $30 billion annually and $10 billion added to the stimulus package, significant advances were made on medical research. It is scandalous—absolutely scandalous—that a nation with our wealth and research capabilities has not done more. Forty years ago, the President of the United States declared war on cancer. Had that war been pursued with the diligence of other wars, most forms of cancer might have been conquered.

I also urge colleagues to increase their activity on foreign travel. Regrettably, we have earned the title of ugly Americans by not treating other nations with proper respect and dignity.

My experience on congressional delegations to China, Russia, India, NATO, Jerusalem, Damascus, Bagdad, Kabul, and elsewhere provided an opportunity for eyeball-to-eyeball discussions with world leaders about our values, our expectations, and our willingness to engage in constructive dialog. Since 1984, I have visited Syria almost every year, and my extensive conversations with Hafiz al-Assad and Bashar al-Assad have convinced me there is a realistic opportunity for a peace treaty between Israel and Syria, if encouraged by vigorous U.S. diplomacy. Similar meetings I have been privileged to have with Muammar Qadhafi, Yasser Arafat, Fidel Castro, Saddam Hussein, and Hugo Chavez have persuaded me that candid, respectful dialog with our toughest adversaries can do much to improve relations among nations.

Now I will shift gears. In my view, a principal reason for the historic stature of the U.S. Senate has been the ability of any Senator to offer virtually any amendment at any time. This Senate Chamber provides the forum for unlimited debate with a potential to acquaint the people of America and the world with innovative proposals on public policy and then have a vote on the issue. Regrettably, that has changed in recent years because of abuse of the Senate rules by both parties.

The Senate rules allow the majority leader, through the right of his first recognition, to offer a series of amendments to prevent any other Senator from offering an amendment. That had been done infrequently up until about a decade ago and lately has become a common practice, and, again, by both parties.

By precluding other Senators from offering amendments, the majority leader protects his party colleagues from taking tough votes. Never mind that we were sent here and are paid to make tough votes. The inevitable and understandable consequence of that practice has been the filibuster. If a Senator cannot offer an amendment, why vote to cut off debate and go to final passage? Senators were willing—and are willing—to accept the will of the majority in rejecting their amendments but unwilling to accept being railroaded to concluding a bill without being provided an opportunity to modify it. That practice has led to an indignant, determined minority to filibuster and to deny 60 votes necessary to cut off debate. Two years ago on this Senate floor, I called the practice tyrannical.

The decade from 1995 to 2005 saw the nominees of President Clinton and President Bush stymied by the refusal of the other party to have a hearing or floor vote on many judicial and executive nominees. Then, in 2005, serious consideration was given by the Republican caucus to changing the longstanding Senate rule by invoking the so-called nuclear or constitutional option. The plan called for Vice President Cheney to rule that 51 votes were sufficient to impose cloture for confirmation of a judge or executive nominee. His ruling, then to be challenged by Democrats, would be upheld by the traditional 51 votes to uphold the Chair's ruling.

As I argued on the Senate floor at that time, if Democratic Senators had voted their consciences without regard to party loyalty, most filibusters would have failed. Similarly, I argued that had Republican Senators voted their consciences without regard to party loyalty, there would not have been 51 of the 55 Republican Senators to support the nuclear option.

The majority leader then scheduled the critical vote on May 25, 2005. The outcome of that vote was uncertain, with key Republicans undeclared. The showdown was averted the night before by a compromise by the so-called Gang of 14. Some nominees were approved, some rejected, and a new standard was established to eliminate filibusters unless there were extraordinary circumstances, with each Senator to decide if that standard had been met. Regrettably, again, that standard has not been followed as those filibusters have continued up to today. Again, the fault rests with both parties.

There is a way out of this procedural gridlock by changing the rule on the power of the majority leader to exclude other Senators' amendments. I proposed such a rule change in the 110th and 111th Congresses. I would retain the 60-vote requirement for cloture on legislation, with a condition that Senators would have to have a talking filibuster, not merely presenting a notice of intent to filibuster. By allowing Senators to offer amendments and a requirement for debate, not just notice, I think filibusters could be effectively managed, as they had been in the past, and still retain, where necessary, the opportunity to have adequate debate on controversial issues.

I would change the rule to cut off debate on judicial and executive branch nominees to 51 votes, as I formally proposed in the 109th Congress. Important positions are left open for months, and the Senate agenda today is filled with unacted-upon judicial and executive nominees, and many of those judicial nominees are in areas where there is an emergency backlog. Since Judge Bork and Justice Thomas did not provoke filibusters, I think the Senate can do without them on judges and executive officeholders. There is a sufficient safeguard of the public interest by requiring a simple majority on an up-down vote. I would also change the rule requiring 30 hours of postcloture debate and the rule allowing the secret hold, which requires cloture to bring the matter to the floor. Requiring a Senator to disclose his or her hold to the light of day would greatly curtail this abuse.

While political gridlock has been facilitated by the Senate rules, I am sorry to say partisanship has been increased greatly by other factors. Senators have gone into other States to campaign against incumbents of the other party. Senators have even opposed their own party colleagues in primary challenges. That conduct was beyond contemplation in the Senate I joined 30 years ago. Collegiality can obviously not be maintained when negotiating with someone simultaneously out to defeat you, especially within your own party.

In some quarters, ''compromise'' has become a dirty word. Senators insist on ideological purity as a precondition. Senator Margaret Chase Smith of Maine had it right when she said we need to distinguish between the compromise of principle and the principle of compromise. This great body itself was created by the so-called Great Compromise, in which the Framers decreed that States would be represented equally in the Senate and proportionate to their populations in the House. As Senate Historian Richard Baker noted: ''Without that compromise, there would likely have been no Constitution, no Senate, and no United States as we know it today.''

Politics is no longer the art of the possible when Senators are intransigent in their positions. Polarization of the political parties has followed. President Reagan's ''big tent'' has frequently been abandoned by the Republican Party. A single vote out of thousands cast can cost an incumbent his seat. Senator BOB BENNETT was rejected by the far right in his Utah primary because of his vote for TARP. It did not matter that Vice President Cheney had pleaded with the Republican caucus to support TARP or President Bush would become a modern Herbert Hoover. It did not matter that 24 other Republican Senators, besides BOB BENNETT, out of the 49 Republican Senators voted for TARP. Senator BENNETT's 93 percent conservative rating was insufficient.

Senator LISA MURKOWSKI lost her primary in Alaska. Congressman MIKE CASTLE was rejected in Delaware's Republican primary in favor of a candidate who thought it necessary to defend herself as not being a witch. Republican Senators contributed to the primary defeats of BENNETT, MURKOWSKI, and CASTLE. Eating or defeating your own is a form of sophisticated cannibalism. Similarly, on the other side of the aisle, Senator JOE LIEBERMAN, a great Senator, could not win his Democratic primary.

The spectacular reelection of Senator LISA MURKOWSKI on a write-in vote in the Alaska general election and the defeat of other Tea Party candidates in the 2010 general elections may show the way to counter right-wing extremists. Arguably, Republicans left three seats on the table in 2010—beyond Delaware, Nevada, and perhaps Colorado—because of unacceptable general election candidates. By bouncing back and winning, Senator MURKOWSKI demonstrated that a moderate centrist can win by informing and arousing the general electorate. Her victory proves that America still wants to be and can be governed by the center.

Repeatedly, senior Republican Senators have recently abandoned long-held positions out of fear of losing their seats over a single vote or because of party discipline. With 59 votes for cloture on this side of the aisle, not a single Republican would provide the 60th vote for many important legislative initiatives, such as identifying campaign contributors to stop secret contributions.

Notwithstanding the perils, it is my hope more Senators will return to independence in voting and crossing party lines evident 30 years ago. President Kennedy's ''Profiles in Courage'' shows the way. Sometimes a party does ask

too much. The model for an elected official's independence in a representative democracy has never been stated more accurately, in my opinion, than it was in 1774 by Edmund Burke, in the British House of Commons, when he said: '' . . . his [the elected representative's] unbiased opinion, his mature judgment, his enlightened conscience . . . [including his vote] ought not to be sacrificed to you, to any man or any set of men living.''

But, above all, we need civility. Steve and Cokie Roberts, distinguished journalists, put it well in a recent column, saying:

> Civility is more than good manners. . . . Civility is a state of mind. It reflects respect for your opponents and for the institutions you serve together. . . . This polarization will make civility in the next Congress more difficult—and more necessary—than ever.

A closing speech has an inevitable aspect of nostalgia. An extraordinary experience for me is coming to an end. But my dominant feeling is pride in the great privilege to be a part of this very unique body with colleagues who are such outstanding public servants. I have written and will write elsewhere about my tenure here, so I do not say farewell to my continuing involvement in public policy, which I will pursue in a different venue. Because of the great traditions of this body and because of its historic resilience, I leave with great optimism for the future of our country, a great optimism for the continuing vital role of the Senate in the governance of our democracy.

I thank my colleagues for listening.

(Applause, Senators rising.)

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Cloture having been invoked, the motion to refer falls.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

TRIBUTE TO RETIRING SENATORS

ARLEN SPECTER

Mr. CASEY. Mr. President, I wish to offer some remarks in furtherance of what Senator SPECTER told us about this great institution. I wanted to spend a moment talking about his service to the Commonwealth of Pennsylvania.

When I came to the Senate in 2007 as a Senator-elect, one of the first things I did was go to see Senator SPECTER. He asked me at that time to go to lunch. From the moment I arrived in the Senate, he made it very clear to me that not only did the people of Pennsylvania expect, but he expected as well, that we work together.

From the beginning of his service in the Senate, way back when he was elected in 1980 all the way up to the present moment, he has been a Senator who was focused on building bipartisan relationships and, of course, focusing on Pennsylvania priorities. I am honored to have worked with him on so many priorities, whether it was veterans or workers, whether it was dairy farmers or the economy of Pennsylvania or whether it was our soldiers or our children or our families. We have worked on so many priorities. He has been a champion for our State and he has shown younger Senators the way to work together in the interests of our State and our country.

That bipartisanship wasn't just a sentiment; it was bipartisanship that led to results. I wish to point to one example of many I could list: the funding for the National Institutes of Health, that great bulwark and generator of discoveries that cures diseases and creates jobs and hope for people often without hope because of a disease or a malady of one kind or another. That bipartisanship Senator SPECTER demonstrated every day in the Senate has achieved results for Pennsylvania, for sure, in terms of jobs and opportunity and hope but also results for the Nation as well.

I know we are short on time, but I wanted to make one note about the history of his service. No Senator in the history of the Commonwealth—and we have had 55 or so Senators, depending on how you count those who have been elected and served, but of those 55, no Senator has served longer than Senator SPECTER. I recall the line—I think it is attributed to Abraham Lincoln, but it is a great line about what years mean and what service means, and I will apply the analogy to Senate service. The line goes something like this: It is not the years in a life, it is the life in those years. I am paraphrasing that. The same could be said of the life of a Senator. It is not just that he served 30 years. That alone is a singular, unprecedented achievement. In fact, the Senator he outdistanced in a sense in terms of years of service was only elected by the people twice. Senator SPECTER was elected by the people of Pennsylvania five times. But it is the life in those Senate years, the work in those Senate years, the contribution to our Commonwealth and our country in those Senate years that matters and has meaning. His impact will be felt for generations—not just decades but for generations.

Let me close with this. There is a history book of our State that came out in the year 2002, and it has a series of stories and essays and chapters on the history of Pennsylvania. It is a fascinating review of the State's history. The foreword to that publication was written by Brent E. Glass, at the time the executive director of the Pennsylvania Historical and Museum Commission. He wrote this in March of 2002. It is a long foreword which I won't read, but he said in the early part of this foreword the following:

> One way to understand the meaning of Pennsylvania's past is to examine certain places around the State that are recognized for their significance to the entire Nation.

Then he lists and describes in detail significant places in Pennsylvania that have a connection to our history, whether it is the Liberty Bell or the battlefield of Gettysburg; whether it is the farms in our Amish communities or whether it is some other place of historic significance. I have no doubt whatsoever that if the same history were recounted about the people who had an impact on our Commonwealth—the people who moved Pennsylvania forward; the people who in addition to moving our State forward had an impact on the Nation—if we make a list of Pennsylvanians who made such contributions, whether it would be William Penn or Benjamin Franklin—and you can fill in the blanks from there—I have no doubt that list would include Senator ARLEN SPECTER. He is a son of Kansas who made Pennsylvania his home. He is a son of Kansas who fought every day for the people of Pennsylvania.

So it is the work and the achievements and the passion and the results in those years in the Senate that will put him on the very short list of those who contributed so much to our Commonwealth that we love and to our country that we cherish.

For all of that and for so many other reasons, as a citizen of Pennsylvania, a resident of Pennsylvania, a citizen of the United States but as a Senator—I want to express my gratitude to Senator ARLEN SPECTER for his 30 years of service, but especially for what those 30 years meant to the people, sometimes people without a voice, sometimes people without power.

Thank you, Senator SPECTER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to join my colleagues in noting the farewell address of Senator ARLEN SPECTER is an inspiring moment in the Senate.

It has been my great honor to serve with Senator SPECTER and to be a member of the Senate Judiciary Committee with him as well. I think of his contribution to the Senate at many levels. I certainly appreciate what he did for the Senate and for the Nation when he chaired the Judiciary Committee and served on that committee, particularly when it came to the hearings involving the appointment of new Supreme Court Justices. Without fail, Senator SPECTER at those hearings would always have dazzling insight into the current state of the law and the record of the nominee. I couldn't wait for him each time there was a hearing to see what his tack would be. It always reflected a thoughtful reflection on the historic moment we faced with each nominee. The questions he asked, the positions he took, the statements he made, all made for a better record for the United States as the

Senate proceeded to vote on those historic nominations.

But there is one area he touched on ever so slightly that I believe is equal to his mark on the Senate Judiciary Committee. This man, Senator ARLEN SPECTER, with the help in some respects and in some efforts by Senator TOM HARKIN, has done more to advance the cause of medical research in his time than virtually any other Member of the Congress. He had a single-minded determination to advance medical research and to put the investment in the National Institutes of Health. On the House side, Congressman John Porter joined him in that early effort—John Porter of Illinois—but time and again ARLEN SPECTER would have as his last bargaining chip on the table, whenever there was a negotiation, that we needed to put more money in the National Institutes of Health. I know he was probably inspired to that cause by many things, but certainly by his own life experience where he has successfully battled so many medical demons and is here standing before us as living proof that with his self-determination and the advancement of science, we can overcome even some of the greatest diseases and maladies that come our way.

He was, to me, a role model many times as he struggled through cancer therapy and never missed a bell when it came to presiding over a committee hearing or coming to the floor to vote. There were times when all of us knew he was in pain. Yet he never let on. He did his job and did it with a gritty determination, and I respect him so much for it. That personal life experience, I am sure, played some role in his determination to advance medical research.

So as he brings an end to his Senate career, there are countless thousands who wouldn't know the name ARLEN SPECTER who have been benefited by this man's public service and commitment to medical research. I thank him for that as a person, as does everyone in this Chamber who has benefited from that cause in his life.

I also think, as I look back on his work on the stimulus bill when he was on the other side of the aisle, that it took extraordinary courage and may have cost him a Senate seat to step forward and say, I will join with two other Republicans to pass a bill for this new President Obama to try to stop a recession and to give some new life to this economy. There were very few with the courage to do it. He was one of them. Sitting with him in the meetings where the negotiations were underway, then-Republican Senator ARLEN SPECTER drove hard bargains in terms of bringing down the overall cost of the project and dedicating a substantial portion—$10 billion, if I am not mistaken—to the National Institutes of Health. Again, the final negotiation on the stimulus bill for America included ARLEN SPECTER's demand that the National Institutes of Health have additional research dollars. His commitment to make that happen did make it happen. Those three votes from the Republican side of the aisle made it happen: a stimulus which averted, in my mind, a terrible, much worse recession, maybe even a depression in America. It was the best of the Senate, when a Senator had the courage to stand up, take a position, risk his Senate seat because he believed in it, and do some good for America which would benefit millions, as his vote and his effort did.

When I look at those whom I have served with in the Senate, there are precious few who meet the standards for ARLEN SPECTER. I am going to miss him for so many reasons, but I know his involvement in public life will not quit. That is often a cliche we hear on the floor after a farewell address. But I know it because he has been hammering away at me every single day about bringing those cameras over to the Supreme Court. So even when he leaves this body, if it is not done then, I am sure I am going to hear from him again on televising the Supreme Court proceedings. I give my word that as long as I am around here, Senator, I will carry that banner for you, and if I have a chance to help you pass that measure at some point in the future I am going to do it because I think it is the right thing to do and I know it has meant so much to you.

The Senate's loss is America's gain as he becomes a public figure in a different life. But during his tenure in the Senate he has graced this institution with an extraordinary intelligence, a determination, and a belief that the national good should rise above any party cause. I am going to miss ARLEN SPECTER and I thank him for being my friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I was pleased to have an opportunity to hear most of the remarks made this morning by my friend and colleague from Pennsylvania and others who have spoken on the occasion of his retirement from the Senate.

I couldn't help but remember when he was campaigning in his first race for the Senate and I had been asked to be available to help out in some campaigns that year. I was a brandnew Senator and didn't know a lot of the protocols, but when I heard ARLEN SPECTER wanted me to come up and speak in Pennsylvania somewhere during his campaign, I decided I would accept the invitation, although I was a little apprehensive about it, about how I would be received as a Republican from Mississippi going up and helping this new candidate who was running on the Republican ticket too. His wife Joan was a member of the city council in Philadelphia, as I recall—very well respected. Anyway, I enjoyed getting to know the Senator and his wife better during those early campaign events. Then, after he was elected, he asked me to make one more trip up.

He could not go to Erie, PA, and keep an invitation that he wanted to accept and speak to a retired group of businessmen. These were older gentlemen who had been prominent in Pennsylvania business and political life. I worried about it—that they would not think much about me. But I went up there and nearly froze to death. I thought this is just a payback for the Civil War, I guess, that ARLEN never got to express. He was going to do his part to help educate me and refine me in the ways of modern America. But that led to an entire career here working alongside him on both sides of the aisle, which I have enjoyed very much.

We have all learned from him the commitment that he makes to the job, the seriousness of purpose that he brings to committee work, and he has truly been an outstanding leader in the Senate, through personal performance and his serious and impressive record of leadership.

I am glad to express those thoughts today and wish ARLEN well in the years ahead. We will still have a friendship that will be appreciated. I look forward to continuing that relationship.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Pennsylvania is recognized.

NEW START TREATY

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about the START Treaty, the consideration of which is now pending before the Senate, and to urge my colleagues to move forward to ratify this important treaty.

I have long been interested in the relationship between the United States and, at that time, the Soviet Union, following the end of World War II, with the emergence of our Nation and the Soviets emerging as the two great world powers.

In college, after the war, I devoted a good bit of study to U.S.-U.S.S.R. relations. I wrote a senior thesis on it as a major in political science and international relations, and I have continued that interest throughout my tenure in the Senate. One of my first initiatives, in 1982, after being elected in 1980, was to propose a resolution calling for a summit meeting between the President of the United States and the head of the Soviet Union.

President Reagan had a practice of making Saturday afternoon speeches—or Saturday morning speeches—on the radio. One day I listened in and heard him talk about the tremendous destructive power which both the U.S. and U.S.S.R. had, and how they had the capacity to destroy each other. Of course, that capacity became the basis of the mutual assured destruction period. But it seemed to me that what ought to be done was there ought to be a dialog and an effort to come to terms with the Soviet Union to reduce the tension and reduce the threat of nuclear war. I, therefore, offered a resolution to propose that.

My resolution was resisted by one of the senior Senators, Senator John Tower of Texas, who was chairman of the Armed Services Committee. When I proposed the resolution, it brought Senator Tower to the floor with a very really heated debate, with Senator Tower challenging my resolution and challenging my knowledge on the subject.

Early on, after being elected and starting to serve in 1981, I had traveled to Grand Forks, ND, to see the Missileman II. I went to Charleston, SC, to see our nuclear submarine fleet, and I went to Edwards Air Force Base in California to look at the B1–B, the B–1 bomber, at that time. I was prepared to take on these issues.

Senator Tower opposed it, offered a tabling motion, and standing in the well of the Senate, as if it was yesterday, I can remember that Senator Laxalt walked down the aisle from the door entering this Chamber and voted no. He started to walk up the aisle to the Republican cloakroom.

Senator Tower chased him and said: Paul, you don't understand. This is a tabling motion. I am looking for an ''aye.''

Laxalt turned and said: I understand it is a tabling motion, and I voted the way I wanted to, no. I want the resolution to go forward.

Senator Tower said: Well, ARLEN SPECTER is trying to tell the President what to do.

Senator Laxalt replied: Well, why shouldn't he? Everybody else does, he said jokingly.

That tabling motion was defeated 60 to 38. When a vote came up on the final resolution, it passed with 90 in favor and 8 in opposition. We know what happened. There were negotiations and President Reagan came up with the famous dictum, ''trust, but verify.''

I was then active in the negotiations, the discussions on the Senate observer group in Geneva around 1987. Then our record is plain that we have approved by decisive numbers three very important treaties. START I was approved by the Senate in 1992, with a vote of 93 to 6. The START II treaty was approved in 1996 by a vote of 87 to 4. The Moscow Treaty of 2003 was approved by a vote of 95 to 0.

We have heard extensive debate on the floor of the Senate. People have questioned the adequacy of the verification. I think those arguments have been answered by Senator JOHN KERRY, chairman of the Foreign Relations Committee, who has done such an excellent job in managing the treaty. Questions have been raised about the missile defense, and I think that, too, has been adequately responded to. This has nothing to do with the issue of missile defense.

For me, a very key voice in this entire issue has been the voice of Senator RICHARD LUGAR, who has pointed out that this treaty does not deal with these collateral issues. This treaty is, directly stated, an extension of the treaty which has been in effect up until the present time and has worked so very well.

Strenuous arguments have been made about modernizing our nuclear forces. Well, that is a subject for another day and another time. But those who have offered that advocacy have found a response from the administration with millions of dollars, from $85 million. That, as I say, belongs to another day and another analysis. But those who have advocated for modernization have gained very substantial responses from the administration on that subject. Curious, in that context, that notwithstanding that very substantial funding, it hasn't won them over, hasn't diminished their resistance to the treaty. Also, curious in the context of those expenditures on an issue, which didn't directly involve the necessity for modernization, there is a real question as to whether there has been adequate debate and study on that subject, on the hearings. It isn't part of the START treaty debate and discussion about the expenditure of that kind of money, considering the kind of a deficit we have, and also considering the advocates of those modernization additions with the great expense have been some of the loudest voices objecting to governmental expenditures.

Well, we ought to spend what it takes for defense. That is the fundamental purpose of the Federal Government, to protect its citizens. But real questions arise in my mind as to whether this was the proper place to have that argument, but that has gone by the boards.

I think the letter which Admiral Mullen, Chairman of the Joint Chiefs of Staff, has issued about the conclusion of the military, that this is a good treaty; about Admiral Mullen's statement that he personally was involved in the negotiations; that if the START treaty was not to be ratified there would be U.S. military resources that would have to be devoted to certain other issues which were taken by START so that it leads to an unequivocal recommendation by our No. 1 military expert, the Chairman of the Joint Chiefs of Staff.

One other very important element that has been discussed, but cannot be over emphasized, is the destructive consequence of having this treaty rejected in terms of our relations with Russia.

Russia is vitally important to us as we deal with Iran, vitally important to us as we deal with North Korea, vitally important to us as we deal with a whole range of international problems. For us to come right to the brink and then to say no and reject it and seek to reopen it would have a very serious effect on our relations with Russia, which are so important to our national security. The other nations of the world are watching in the wings what we do here. It would have a domino effect on our relationship with other nations.

It comes in a context where it is subject to being misunderstood as a political matter in the United States. I do not question for a moment the motivation of those who oppose START. Those who have spoken against it have been some of our body's most knowledgeable Members on this important subject. But there is so much publicity about some questioning whether President Obama can have both the START treaty and repeal of don't ask, don't tell at the same time, there has been so much public comment about not wanting to see President Obama have another victory before the end of the year, so much comment which raises a question as to whether opposition is politically motivated.

If the Russians and the other nations of the world cannot rely upon the Senate to make a judgment on the merits without regard to the politics or the appearance of politics, it has very serious consequences for our standing in the international community of nations.

For those reasons, I do believe we ought to move ahead promptly. We ought to ratify this treaty. We ought to continue our strenuous efforts to rid the world of the threat of nuclear war. This is part of that ongoing process.

I urge my colleagues to ratify this important treaty.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Alabama is recognized.

ARLEN SPECTER

Mr. SESSIONS. Mr. President, I see my other colleagues. I do wish to talk about one or two judicial nominees, but I want to say first how much I appreciate Senator SPECTER.

I have had the honor to serve on the Senate Judiciary Committee with Senator SPECTER the entire time I have been in the Senate—going on 14 years, I guess. No one has a clearer legal mind. The clarity of his thought and expression is always impressive to me. And as someone who practiced law, I see the great lawyer skills he possesses.

Also, I note that he has not just today but throughout his career defended the legitimacy of the powers of the Senate. He was very articulate over the past number of years in criticizing the abuse of filling the tree, where bills can be brought up and amendments are not allowed. He has believed that is an unhealthy trend in the Senate, and he has been one of the most effective advocates in opposition to it.

He sponsored and helped pass the Armed Career Criminal Act. He was one of the leaders in that. Having been a longtime prosecutor in Philadelphia, I like to tease our good friend Senator LEAHY that he was a prosecutor, but it was in Vermont. Senator SPECTER had to deal with a lot of crime in Philadelphia and was consistently reelected there for his effectiveness and is a true source of insight into crime in America and has been an effective advocate for fighting crime.

I note also that he has a good view about a Senator. He respects other Senators. He was talking with me one time or I was sharing with him my concern about a matter, and he used a phrase I heard him use more than once: Well, you are a U.S. Senator. In other words, if you do not like it, stand up and defend yourself. He respected that, even if he would disagree.

I remember another time Senator SPECTER was on the floor. I had just arrived in the Senate. I wanted him to do something—I have long since forgotten what.

I said: Senator SPECTER, you could vote for this, and back home, you could say thus and so.

He looked right at me, and he said: Senator, I don't need your advice on how to conduct myself back home politically.

I learned a lesson from that. I never told another Senator that, I say to Senator SPECTER. Who am I to tell you how to conduct yourself politically back home in the State of Pennsylvania?

Senator SPECTER chaired the Judiciary Committee during the confirmations of Chief Justice Roberts and Justice Alito. He was the leading Republican chair at that time. He raised questions about the nominees. But as chairman of the committee, with the votes and support of his Republican colleagues, he protected our rights, he protected our interests. He did not back down one time on any action by the other party that would have denied the ability to move that nomination forward to a vote and protect the rights of the parties on our side.

Those are a few things that come to mind when I think about the fantastic service he has given to the Senate. He is one of our most able Members, one of our most effective defenders of senatorial prerogative and independence, one of our crime fighters without par, and one of the best lawyers in the Senate, a person who is courageous and strong. Even when he was conducting those very intense Alito and Roberts hearings—it was just after he had serious cancer treatment, the chemotherapy. I know he didn't feel well, but he was fabulous in conducting himself at that time. Throughout all of that treatment, his work ethic surpassed by far that of most Senators in this body. It has been an honor to serve with him.

I see my other colleagues. I know Senator COBURN wanted to come down. He was told he might be able to speak around noon.

SENATOR SPECTER

Mr. BENNET. Mr. President, first, before I get into my remarks, I wish to say how much I appreciated the remarks of Senator SPECTER today. I, for one, hope Senators on both sides of the aisle, Democrats and Republicans, heed his closing remarks as he described them and also the farewell remarks of so many Senators over the last 2 or 3 weeks. I think there is a lot of wisdom we can apply to our work going forward.

I thank Senator SPECTER very much for his service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

NEW START TREATY

Mr. BEGICH. Mr. President, I rise in support of the New START treaty. I do so for several reasons.

First, of course, the treaty is essential for national security. It promotes transparency and stability between the two countries that possess the majority of the world's nuclear weapons. It will decrease the likelihood of a nuclear weapon falling into the hands of a rogue nation.

For the residents of my State, the treaty is close to home, literally. Alaska and Russia are less than 3 miles apart at the closest point in the Bering Sea. Commerce, scientific, educational, and cultural exchanges are commonplace between Alaska and our Russian neighbors. So peaceful coexistence with Russia is more than an abstract concept to my constituents; it is a way of life.

The second reason this treaty is personal for Alaskans is because of our close proximity to North Korea. When North Korea's leader exercises his political muscle by firing test missiles or threatening to attack the United States, Alaskans get nervous because we are most directly in the line of fire.

Thankfully, my home State is home to the ground-based missile defense system. Based at Fort Greely, this sophisticated system of more than two dozen ground-based interceptors is maintained and operated by highly trained members of the Alaska National Guard. I was pleased to show Defense Secretary Robert Gates this state-of-the-art system last year. I worked with my colleagues on both sides of the aisle to make sure this system gets the resources and funding it warrants to protect us. I will continue to do that.

I would be troubled if the New START treaty impacted our Nation's missile defense system. I know some of my colleagues on the other side of the aisle would be equally concerned. Fortunately, such concerns are unfounded. I am confident nothing in this treaty will limit our ability to defend ourselves and our allies against a ballistic missile attack from a rogue nation.

The preamble of this treaty simply acknowledges the relationship between offensive and defensive strategic arms and verifies that current defensive strategic arms do not undermine the offensive forces. The preamble is nonbinding. There is no action or inaction arising from this statement.

The section of the treaty prohibiting conversion of missile silos or launchers for ballistic missile defense purposes does not impact us. It is not something we are planning to do. In fact, we are in the process of completing a missile field in Alaska to field interceptors. The field will have seven spare silos to deploy more interceptors if we need them. We are moving forward with the phased adaptive approach to protect our allies, with the two-stage interceptor as a hedge.

The unilateral statement by Russia also is nonbinding and is not even part of the treaty. Our own unilateral statements make it clear that this treaty will not constrain missile defense in any way and that we will continue improving and deploying missile defense systems to protect us and our allies. These types of statements in a treaty are not unprecedented. The right to withdraw has been stated in many previous treaties—the nonproliferation treaty and the START treaty. Those statements did not stop the Senate from ratifying those treaties. The language in the New START treaty should not either. In fact, this treaty actually helps missile defense because it lessens restrictions on test targets that were in the previous treaty. We will have more flexibility in testing.

We have heard from our national security leaders that this treaty does not constrain ballistic missile defense in any way. Secretary of State Hillary Clinton, Secretary of Defense Robert Gates, Chairman of the Joint Chiefs of Staff Mike Mullen, Missile Defense Agency Director LTG Patrick O'Reilly, former Strategic Commander GEN Kevin Chilton, and countless others confirm that this treaty in no way limits our ballistic missile defense plans. We cannot disregard the views of our Nation's most senior military and civilian leaders on this critical issue because of politics.

We have had almost 7 months to consider this treaty. We have had numerous hearings and briefings—more on this treaty than any other single item I have been involved in since I have been here. In that time, I heard no current or former national security leader say this treaty is a detriment to ballistic missile defense. What they say and what we know is that the New START treaty will strengthen national security and will not constrain ballistic missile defense.

For all of these reasons, I urge a prompt approval of this vital treaty for our Nation and our world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I ask unanimous consent that my statement and that of Senator UDALL appear as in executive session and that the time be charged postcloture.

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

NOMINATION OF BILL MARTINEZ

Mr. BENNET. Mr. President, I rise today to state my strong support for the nomination of Bill Martinez to serve on the U.S. District Court for the District of Colorado. Having recommended his candidacy to the President, along with my colleague Senator UDALL, I believe he is eminently qualified for the Federal bench.

Bill was nominated to serve on the U.S. District Court for the District of

Colorado in February of this year. His nomination cleared the Senate Judiciary Committee in April. Since then, he has been in a state of limbo awaiting a final vote allowing him to serve. That is why I am very grateful for the hard work of the Judiciary Committee, both Democrats and Republicans, who have moved this nomination forward and are trying to finish it before the end of the 111th Congress.

Our State has two vacancies on the district court. Both vacancies are over 2 years old, with one close to 3 years old. Because there are only seven Federal judgeships in our State, the other judges are facing ever-growing caseloads, resulting in significant backlogs for those seeking justice.

In fact, the administrative office of the courts has declared the vacancy situation in Colorado a judicial emergency. It is important that we move these nominations forward to prevent further backlogs and judicial emergencies, and I pledge to work with my colleagues on both sides of the aisle to make sure we can work together to confirm judicial nominees such as Bill Martinez in a timely manner.

I believe, after careful review of Bill Martinez's experience, my colleagues will see this is someone well worth confirming. Bill is currently at a law firm in Denver, where he primarily represents plaintiffs in Federal and State courts and before arbitrators and administrative agencies. He is certified as AAA arbitrator in employment disputes.

Prior to starting his own firm, he was a regional attorney of the U.S. EEOC in its Denver district office. Senator UDALL will be going into more detail regarding this nominee.

There, Bill had responsibility for the Commission's legal operations and Federal court enforcement litigation in the office's six-State jurisdiction.

Before joining the EEOC, Bill worked in private practice on employment, securities and commercial litigation.

I know some want to focus on his pro bono work and try to make political assumptions about him from a small portion of his career. But I know Bill, and he is the sum of a lot of great work in the public and private sectors.

For example, while at the EEOC Bill was in charge of an age discrimination class action suit that resulted in a settlement of nearly $200 million for 3,200 laid off engineers. This is one of the largest ever age discrimination class actions.

Bill began his career at the Legal Assistance Foundation of Chicago, representing indigent clients and other individuals seeking low- or no-cost counsel. This is a nominee whose breadth of legal experience has spanned the profession, and I think for that reason alone he should be confirmed.

Over the course of his legal career, Bill has been lead or colead counsel in complex litigation, resulting in 18 published opinions from Federal and State courts in Colorado and Illinois. Bill's time as a litigator and advocate has provided him with the necessary skills and perspective to deal with the diverse docket that comes before U.S. district court judges.

Beyond his distinguished legal skills, Bill's personal story is a tribute to this country and embodies the American dream. He is an immigrant success story. Bill was born in Mexico and immigrated with his family to the United States at a young age. He was the first in his family to attend college and law school. His rise through the legal profession is a great example for bright, young law students, and, indeed, for us all.

I urge my colleagues to vote for Bill's nomination. He is a model nominee for the Federal district court, an expert in labor and employment law who will serve Coloradans well. Bill Martinez has the experience and strong sense of civic responsibility we need on the Federal bench.

I thank the chairman for his guidance of this nomination, and I urge my colleagues to vote to confirm Bill to Colorado 's Federal bench.

I also would be remiss, if I didn't thank my senior Senator, MARK UDALL, for his extraordinary efforts to make sure we had a fair, balanced, and thoughtful search process. I think that process for this appointment and for the others whom we have done already are a model for the country, and it is a real testament to Senator UDALL's leadership.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

NEW START TREATY

Mr. CORKER. Mr. President, I know today is a pretty monumental day as it relates to the START treaty we have been discussing for some time, and tomorrow will be a big day in that regard too. I think there is nothing more we care about than our country being secure. I have two daughters who are 21 and 23, a wonderful wife, and extended family, as does every Member in this room, and there is nothing I take more seriously than making sure our country is secure.

So as a member of the Foreign Relations Committee, when we entered into discussions relating to the START treaty, I attended 11 of the 12 hearings. I have been in multiple classified meetings, I have spoken to military leaders across our country, and I have been in so many intelligence briefings that I have begun to speak like an intelligence officer. So I have taken this responsibility very seriously.

I wish to say there are numbers of people who obviously are still making up their mind regarding this treaty, and that is why I came to the floor. One of the things we do when we end up ratifying a treaty is we have something called a resolution of ratification. No doubt this treaty was negotiated by the President and his team—the Secretary of State and others who work with Secretary Clinton—and no doubt that is done by people on the other side of the aisle. But what I would like to bring to the attention of my colleagues is that whenever we ratify a treaty, we do so through something called a resolution of ratification. For those who might not have been involved in the markup, I would like for everyone in this body to know this resolution of ratification, thanks to the good will of the chairman of our committee, was mostly drafted by Republicans. It was drafted, with the approval, certainly, of the chairman, but this was drafted by Senator LUGAR, by myself, Senator KYL had tremendous input into this, and Senator ISAKSON.

So the resolution of ratification we are amending today had tremendous Republican input. As a matter of fact, it was done mostly by Republicans. As a matter of fact, this resolution of ratification is called the Lugar-Corker resolution. This is what came out of committee.

One of the things that has concerned people on both sides of the aisle has been this whole issue of modernization. I have seen something of beauty over the last year. About 1 year ago, I met with Senator KYL in the Senate Dining Room, and we began looking at the modernization of our nuclear arsenal. Many people have focused during this debate on the fact that we have 1,550 warheads as a limitation, if you will, in this treaty. But they fail to realize we have over 5,000 warheads in our nuclear arsenal, all of which need to be modernized, and all of which are getting ready to be obsolete if we don't make the investment.

As a matter of fact, the Presiding Officer and I have visited some of the labs throughout our country. There are seven facilities we have in this country that deal with our nuclear arsenal. Many of those are becoming obsolete and must have needed investment.

I have watched Senator KYL over the last year, in a very methodical way—under his leadership, with me as his wing man, and others—working to make sure the proper modernization of our nuclear arsenal takes place. There is no question in my mind—there is no question in my mind—if it were not for the discussion of this treaty, we would not have the commitments we have today on modernization.

This is the 1251 report that is required by Defense authorization. This has been updated twice due to the efforts of Republicans, led by Senator KYL, who has done an outstanding job. This has been updated twice. First, we had a 5-year update about 60 days ago, and we had a 10-year update that came thereafter. This is our nuclear modernization plan.

Mr. President, I ask unanimous consent to have printed in the RECORD the nuclear modernization plan as part of this debate.

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

NOVEMBER 2010 UPDATE TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF FY2010 SECTION 1251 REPORT

NEW START TREATY FRAMEWORK AND NUCLEAR FORCE STRUCTURE PLANS

Introduction

This paper updates elements of the report that was submitted to Congress on May 13, 2010, pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) (''1251 Report'').

2. National Nuclear Security Administration and modernization of the complex—an overview

From FY 2005 to FY 2010, a downward trend in the budget for Weapons Activities at the National Nuclear Security Administration (NNSA) resulted in a loss of purchasing power of approximately 20 percent. As part of the 2010 Nuclear Posture Review, the Administration made a commitment to modernize America's nuclear arsenal and the complex that sustains it, and to continue to recruit and retain the best men and women to maintain our deterrent for as long as nuclear weapons exist. To begin this effort, the President requested a nearly 10 percent increase for Weapons Activities in the FY 2011 budget, and $4.4 billion in additional funds for these activities for the FY 2011 Future Years Nuclear Security Plan (FYNSP). These increases were reflected in the 1251 report provided to Congress in May 2010.

The Administration spelled out its vision of modernization through the course of 2010. In February, soon after the release of the President's budget, the Vice President gave a major address at the National Defense University in which he highlighted the need to invest in our nuclear work force and facilities. Several reports to Congress provided the details of this plan, including: NNSA's detailed FY 2011 budget request, submitted in February; the strategy details in the Nuclear Posture Review (NPR) (April); the 1251 report (May); and the multi-volume Stockpile Stewardship and Management Plan (SSMP) (June). Over the last several months, senior Administration officials have testified before multiple congressional committees on the modernization effort.

The projections in the Future Years Nuclear Security Plan (FYNSP) that accompanied the FY 2011 budget submission and the 1251 report by the President are, appropriately called, 'projections.' They are not a 'fixed in stone' judgment of how much a given project or program may cost. They are a snapshot in time of what we expect inflation and other factors to add up to, given a specific set of requirements (that are themselves not fixed) over a period of several years. Budget projections, whether in the FYNSP and other reports, are evaluated each year and adjusted as necessary.

Indeed, planning and design, as well as budget estimates, have evolved since the budget for FY 2011 was developed. Notably, stockpile requirements to fully implement the NPR and the New START Treaty have been refined, and the NNSA has begun executing its Stockpile Stewardship and Management Plan (SSMP). This update will discuss, in particular, evolving life extension programs (LEP) and progress on the designs of key facilities such as the Uranium Processing Facility (UPF) and the Chemistry and Metallurgy Research Replacement (CMRR).

Based on this additional work, and the development of new information and insights, the President is prepared to seek additional resources for the Weapons Activities account, over and above the FY 2011 FYNSP, for the FY 2012 budget and for the remainder of the FYNSP period (FY 2013 through FY 2016).

Specifically, the President plans to request $7.6 billion for FY 2012 (an increase of $0.6 billion over the planned FY 2012 funding level included in the FY 2011 FYNSP). Thus, in two years, the level of funding for this program requested will have increased by $1.2 billion, in nominal terms, over the $6.4 billion level appropriated in FY 2010. Altogether, the President plans to request $41.6 billion for FY 2012–2016 (an increase of $4.1 billion over the same period from the FY 2011 FYNSPT—).

Given the extremely tight budget environment facing the federal government, these requests to the Congress demonstrate the priority the Administration's places on maintaining the safety, security and effectiveness of the deterrent.

3. NNSA—Program Changes and New Requirements since submission of the 1251 Report

A. Update to Stockpile Stewardship and Sustainment

Surveillance—Surveillance activities are essential to enabling continued certification of the reliability of the stockpile without nuclear testing. Surveillance involves withdrawing weapons from deployment and subjecting them to laboratory tests, as well as joint flight tests with the DoD to assess their reliability. These activities allow detection of possible manufacturing and design defects as well as material degradation over time. NNSA has also received recommendations from the National Laboratory directors, the DoD, the STRATCOM Strategic Advisory Group, and the JASON Defense Advisory Panel that the nuclear warhead/bomb surveillance program should be expanded.

In response to this broad-based advice, NNSA has reviewed the stockpile surveillance program and its funding profile. From FY 2005 through FY 2009, funding for surveillance activities, when adjusted for inflation, fell by 27 percent. In recognition of the serious concerns raised by chronic underfunding of these activities, beginning in FY 2010, the surveillance budget has been increased by 50 percent, from $158 million to $239 million. In the FY 2012 budget, the President will seek to sustain this increase throughout the FYNSP. This level of funding will assure that the required surveillance activities can be fully sustained over time.

Weapon System Life Extension—The Administration is committed to pursuing a fully funded Life Extension Program for the nuclear weapons stockpile. The FY 2011 budget submission and the NPR outlined initial plans. Since May 2010, additional work has further defined the requirements to extend the life of the following weapon systems:

W76—The Department of Defense has finalized its assessment of the number of W76 warheads recommended to remain in the stockpile to carry out current guidance. The number of W76–1 life-extended warheads needing completion is larger than NNSA built into its FY 2011 budget plans. NNSA, with the support of the DoD, has adjusted its plan accordingly to ensure the W76–1 build is completed in FY 2018, an adjustment of one year that is endorsed by the Nuclear Weapons Council. This adjustment will not affect the timelines for B61 or W78 life extensions. The LEP will be fully funded for the life of the program at $255 million annually.

B61—NNSA began the study on the nuclear portion of the B61 life extension in August 2010, six months later than the original planning basis. To overcome this delay, NNSA will accelerate the technology maturation, warhead development, and production engineering that is necessary to retain the schedule for the completion of the first production unit in FY 2017. An additional $10 million per year has been added to the FY 2012 FYNSP for this purpose.

W88 AF&F—The 1251 Report addressed the intent to study, among other things, a common warhead for the W78 and the W88 as an option for W78 life extension. Early development of a W88 Arming, Fuzing, and Firing system (AF&F) would enhance the evaluation of commonality options and enable more efficient long-term sustainment of the W88. Approximately $400 million has been added to the FY 2012–16 FYNSP for this purpose.

Stockpile Systems and Services—NNSA is now seeking to execute a larger program of stockpile maintenance than assumed in planning the FY 2011 budget and than projected in the 1251 Report. The additional work includes an increase in the development/production of the limited life components to support the weapons systems. Consequently, the Administration plans to request increased funding of $40 million in FY 2012 for the production of neutron generators and gas transfer systems. NNSA and DoD are aligned for the delivery of essential hardware to ensure no weapon fails to meet requirements.

New Experiments—NNSA's current science and surveillance activities have been more successful than originally anticipated in ensuring the reliability of our existing stockpile without nuclear testing. As we continue to develop modern life extension programs, however, NNSA and the laboratories are considering even more advanced methods for evaluating the best technical options for life extension programs, including refurbishment, reuse and replacement of nuclear components. One such effort of interest that could aid in our efforts includes expanded subcritical experiments designed to modernize warhead safety and security features without adding new military capabilities or pursuing explosive nuclear weapons testing. This program might include so-called ''scaled experiments'' that could improve the performance of predictive capability calculations by providing data on plutonium behavior under compression by insensitive high explosives. In order to thoroughly understand this issue, to assess its cost-effectiveness and to ensure that there is a sound technical basis for any such effort, the Administration will conduct a review of these proposed activities and potential alternatives.

B. Updates to Modernization of the Nuclear Weapons Complex

Modernization of the complex includes reducing deferred maintenance, constructing replacement facilities, and disposing of surplus facilities. The Administration is committed to fully fund the construction of the Uranium Processing Facility (UPF) and the Chemistry and Metallurgy Research Replacement (CMRR), and to doing so in a manner that does not redirect funding from the core mission of managing the stockpile and sustaining the science, technology and engineering foundation. To this end, in addition to increased funding for CMRR and UPF, the FY 2012 budget will increase funding over the FY 2012 number in the 2011 FYNSP for facilities operations and maintenance by approximately $176 million.

Readiness in Technical Base and Facilities (RTBF): CMRR and UPF Construction—These two nuclear facilities are required to ensure the United States can maintain a safe, secure and effective arsenal over the long-term. The NPR concluded that the United States needed to build these facilities; the Administration remains committed to their construction.

Construction of large, one-of-a-kind facilities such as these presents significant challenges. Several reviews by the Government

Accountability Office, as well as a ''root-cause'' analysis conducted by the Department of Energy in 2008, have found that initiating construction before designs are largely complete contributes to increased costs and schedule delays. In response to these reviews, and in order to assure the best value for the taxpayers, NNSA has concluded that reaching the 90% engineering design stage before establishing a project baseline for these facilities is critical to the successful pursuit of these capabilities.

The ten-year funding plan reported in the 1251 Report reflected cost estimates for these two facilities that were undertaken at a very early stage of design (about 10% complete), were preliminary, and could not therefore provide the basis for valid, longer-range cost estimates. The designs of these two facilities are now about 45% completed; the estimated costs of the facilities have escalated. Responsible stewardship of the taxpayer dollars required to fund these facilities requires close examination of requirements of all types and to understand their associated costs, so that NNSA and DoD can make informed decisions about these facilities. To this end, NNSA, in cooperation with the DoD, is carrying out a comprehensive review of the safety, security, environmental and programmatic requirements that drive the costs of these facilities. In parallel with, and in support of this effort, separate independent reviews are being conducted by the Corps of Engineers and the DOE Chief Financial Officer's Cost Analysis Office. In addition, the Secretary of Energy is convening his own review, with support from an independent group of senior experts, to evaluate facility requirements.

The overriding focus of this work is to ensure that UPF and CMRR are built to achieve needed capabilities without incurring cost overruns or scheduling delays. We expect that construction project cost baselines for each project will be established in FY 2013 after 90% of the design work is completed. At the present time, the range for the Total Project Cost (TPC) for CMRR is $3.7 billion to $5.8 billion and the TPC range for UPF is $4.2 billion to $6.5 billion. TPC estimates include Project Engineering and Design, Construction, and Other Project Costs from inception through completion. Over the FYNSP period (FY 2012–2016) the Administration will increase funding by $340 million compared with the amount projected in the FY 2011 FYNSP for the two facilities.

At this early stage in the process of estimating costs, it would not be prudent to assume we know all of the annual funding requirements over the lives of the projects. Funding requirements will be reconsidered on an ongoing basis as the designs mature and as more information is known about costs. While innovative funding mechanisms, such as forward funding, may be useful in the future for providing funding stability to these projects, at this early design stage, well before we have a more complete understanding of costs, NNSA has determined that it would not yet be appropriate and possibly counterproductive to pursue such mechanisms until we reach the 90% design point. As planning for these projects proceeds, NNSA and OMB will continue to review all appropriate options to achieve savings and efficiencies in the construction of these facilities.

The combined difference between the low and high estimates for the UPF and CMRR facilities ($4.4 billion) results in a range of costs beyond FY 2016 as shown in Figure 3. Note that for the high estimate, the facilities would reach completion in FY 2023 for CMRR and FY 2024 for UPF. For each facility, functionality would be attainable by FY 2020 even though completion of the total projects would take longer.

Readiness in the Technical Base of Facilities (RTBF)—Operations and Maintenance

In order to implement an increased scope of work for stockpile activities, especially surveillance and the ongoing life extension programs (LEPs), the following will be supported:

NNSS—Full experimental facility availability to support ongoing subcritical and other experiments necessary for certification of life extension technologies.

Pantex—Funds are included in the FY 2012 request to fully cover anticipated needs for flood prevention.

SNL—Replacement of aging and failing equipment at the Tonopah Test Range in Nevada to facilitate the increasing pace of operations support for the B61; and Micro-electronics, engineering test, and surveillance actions at SNL to support the B61, W76 and W78 that require additional equipment maintenance in facilities and the need to operate engineering test facilities that currently operate in a periodic campaign mode.

LLNL, LANL, and Y–12—Investments in infrastructure and construction, including support for Site 300, PF–4, and Nuclear Facilities Risk Reduction.

Kansas City—Investment sufficient to meet LEP needs for the W76–1, B–6I, and W78/88 while preparing and completing the move to the KCRIMS site at Botts Road.

Savannah River—Sufficient investment to ensure that availability of tritium supplies adequate for stockpile needs is assured.

RTBF: Other Construction—As the CMRR and UPF projects are completed, NNSA will continue to modernize and refurbish the balance of its physical infrastructure over the next ten years. The FY 2012 budget request includes $67 million for the High Explosive Pressing Facility project that is ongoing at Pantex, $35 million for the Nuclear Facilities Risk Reduction Project at Y–12, $25 million for the Test Capabilities Revitalization Project at Sandia, as well as $9.8 million for the Transuranic Waste Facility and $20 million for the TA–55 Reinvestment Project at LANL.

RTBF: Construction Management—Because of the unprecedented scale of construction that NNSA is initiating, both in the nuclear weapons complex and in non- proliferation activities, the Administration recognizes that stronger management structures and oversight processes will be needed to prevent cost growth and schedule slippage. NNSA will work with DoD, OMB, and other affected parties to analyze current processes and to consider options for enhancements.

C. Pension Cost Growth and Alternative Mitigation Strategies

NNSA has a large contractor workforce that is covered by defined-benefit pension plans for which the U.S. Government assumes liability. Portfolio management decisions, market downturns, interest rate decreases, and new statutory requirements have caused large increases in pension costs. The Administration is fully committed to keeping these programs solvent without harming the base programs. The Administration will therefore cover total pension reimbursements of $875 million for all of NNSA for FY 2012, adding $300 million more to the NNSA topline than the amount provided in FY 2011. Over the five year period FY 2012 to FY 2016, the Administration will provide a total of $1.5 billion above the FY 2011 level. About three-quarters of this funding is associated with Weapons Activities and is included in the funding totals for those programs noted above.

The Administration will conduct an independent study of these issues using the appropriate statutory and regulatory framework to inform longer-term decisions on pension reimbursements. The Administration is evaluating multiple approaches to determine the best path to cover pension plan contributions, while minimizing the impact to mission. Contractors are evaluating mitigation strategies, such as analyzing plan changes, identifying alternative funding strategies, and seeking increased participant contributions. Also, contractors have been directed to look into other human resource areas where savings can be achieved, in order to help fund pension plan contributions.

3. Summary of NNSA Stockpile and Infrastructure Costs

A summary of estimated costs specifically related to the Nuclear Weapons Stockpile, the supporting infrastructure, and critical science, technology and engineering is provided in Table 1.

TABLE 1—TEN-YEAR PROJECTIONS FOR WEAPONS STOCKPILE AND INFRASTRUCTURE COSTS

$ Billions	Fiscal year										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Directed Stockpile	1.5	1.9	2.0	2.1	2.3	2.5	2.6	2.6	2.6	2.6	2.6
Science Technology & Engineering Campaigns	1.6	1.7	1.8	1.8	1.8	1.8	1.9	2.0	2.1	2.2	2.3
Readiness in Technical Base and Facilities	1.8	1.8	2.1	2.3	2.5	2.5	2.5	2.7	2.8–2.9	2.9–3.1	2.9–3.3
UPF	0.1	0.1	0.2	0.2	0.4	0.4	0.4	0.48–0.5	0.48–0.5	0.48–0.5	0.38–0.5
CMRR	0.1	0.2	0.3	0.3	0.4	0.4	0.4	0.48–0.5	0.4–0.5	0.3–0.5	0.2–0.5
Secure Transportation	0.2	0.2	0.3	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Defense Programs Subtotal	5.2	5.7	6.1	6.5	6.9	7.1	7.3	7.5–7.6	7.7–7.9	7.9–8.2	8.0–8.4
Other Weapons	1.2	1.3	1.3	1.3	1.3	1.3	1.4	1.4	1.4	1.4	1.5
Subtotal, Weapons	6.4	7.0	7.4	7.8	8.2	8.5	8.7	8.9–9.0	9.2.9.3	9.4–9.6	9.4–9.8
Contractor Pensions Cost Growth	.....	.....	0.2	0.2	0.2	0.2	0.2	*TBD	*TBD	*TBD	*TBD
Total, Weapons	6.4	7.0	7.6	7.9	8.4	8.7	8.9	8.9–9.0	9.2–9.3	9.4–9.6	9.4–9.8

Numbers may not add due to rounding.

*Anticipated costs for contractor pensions have been calculated only through FY 2016. For FY 2017–2020, uncertainties in market performance, interest rate movement, and portfolio management make prediction of actual additional pension liabilities, assets, and contribution requirements unreliable.

4. Plans for Sustaining and Modernizing U.S. Strategic Delivery Systems

The Administration remains committed to the sustainment and modernization of U.S. strategic delivery systems, to ensure continuing deterrent capabilities in the face of evolving challenges and technological developments. DoD's estimates of costs to sustain and modernize strategic delivery systems will be updated as part of the President's FY 2012 budget request; until this budget request is finalized, figures provided in the May 2010 1251 report remain the best available cost estimates.

The following section of this report provides the latest information on DoD's efforts to modernize the Triad, including expected timelines for key decisions.

Strategic Submarines (SSBNs) and Submarine-Launched Ballistic Missiles (SLBMs)

As the NPR and the 1251 Report note, the United States will maintain continuous at-sea deployments of SSBNs in the Atlantic and Pacific Oceans, as well as the ability to surge additional submarines in crisis. The current Ohio-class SSBNs, have had their service life extended by a decade and will commence retirement in FY 2027. DoD plans a transition between the retiring Ohio-class SSBNs and the Ohio-class replacement that creates no gap in the U.S. sea-based strategic deterrent capability.

Current key milestones for the SSBN replacement program include:

Research, development, test, and evaluation (RDT&E) began in FY 2010 and continues with the goal of achieving 10 percent greater design maturity prior to starting procurement than the USS VIRGINIA class had before procurement started;

In FY 2015, the Navy will begin the detailed design and advanced procurement of critical components;

In FY 2019, the Navy will begin the seven-year construction period for the new SSBN lead ship;

In FY 2026, the Navy will begin the three-year strategic certification period for the lead ship; and

In FY 2029, the lead ship will commence active strategic at-sea service.

The Analysis of Alternatives (AoA) considered three platforms concepts for the Ohio-class Replacement: VIRGINIA-Insert, OHIO-Like, and a New Design. DoD is currently evaluating the advantages and disadvantages of each concept, including cost tradeoffs, with the goal of meeting military requirements at an affordable cost. An initial milestone decision is expected by the end of calendar year 2010 to inform the program and budget moving forward.

After the initial milestone design decision is made, DoD will be able to provide any adjustments to the estimated total costs for the Ohio-class replacement program. Thus, today's estimated total costs for FY 2011 through FY 2020 remain the same as reported in the 1251 Report: a total of approximately $29.4 billion with $11.6 billion for R&D and $17.8 billion for design and procurement.

As noted in the 1251 Report, the Navy plans to sustain the Trident II D5 missile, as carried on Ohio-class Fleet SSBNs as well as the next generation SSBN, through a least 2042 with a robust life-extension program.

Intercontinental Ballistic Missiles (ICBMs)

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

The Capabilities-Based Assessment (CBA) for the ICBM follow-on system is underway.

By late 2011, the study plan for the AoA, including the scope of options to be considered, will be completed.

In 2012, the AoA will begin.

In FY 2014, the AoA will be completed, and DoD will recommend a specific way-ahead for an ICBM follow-on to the President.

The Air Force is funding the ongoing CBA effort at approximately $26 million per year. Given the inherent uncertainties about missile configuration and basing prior to the completion of the AoA, DoD is unable to provide costs for its potential development and procurement at this time. However, DoD expects to be able to include funding for RDT&E for an ICBM follow-on system in the FY 2013 budget request, based on initial results from the AoA.

The Air Force plans to sustain the Minuteman III through 2030. That sustainment includes substantial ongoing life extension programs, cost data for which was provided to Congress in the May 2010 Section 1251 Report.

Heavy Bombers

DoD plans to sustain a heavy bomber leg of the strategic Triad for the indefinite future, and is committed to the modernization of the heavy bomber force. Thus, the question being addressed in DoD's ongoing long-range strike study is not whether to pursue a follow-on heavy bomber, but the appropriate type of bomber and the timelines for development, production, and deployment. The long-range strike study, which is also considering related investments in electronic attack, intelligence, surveillance and reconnaissance, air- and sea-delivered cruise missiles, and prompt global strike, will be completed in time to inform the President's budget submission for FY 2012.

As stated in the May 2010 1251 Report, pending the results of the long-range strike study, estimated costs for a follow-on bomber for FY 2011 through FY 2015 are $1.7 billion and estimated costs beyond FY 2015 are to-be-determined. DoD intends to provide any necessary updates to cost estimates along with the President's budget submission for FY 2012.

The Air Force plans to retain the B–52 in the inventory through at least 2035 to continue to meet both nuclear and conventional mission requirements. The Air Force will make planned upgrades and life extensions to the fleet. The B–2 fleet is being upgraded through three top priority acquisition programs: the Radar Modernization Program (RMP), Extremely High Frequency (EHF) Satellite Communications and Computers, and Defensive Management System (DMS), as well as multiple smaller sustainment initiatives.

Air Launched Cruise Missile (ALCM)

DoD intends to replace the current ALCM with the advanced long range standoff (LRSO) cruise missile. The CBA for the LRSO is underway. An AoA will be conducted from approximately spring 2011 through fall 2013. The AoA will define the platform requirements, provide cost-sensitive comparisons, validate threats, and establish measures of effectiveness, and assess candidate systems for eventual procurement and production.

The Air Force has programmed approximately $800 million for RDT&E over the FYDP for the development of LRSO. Based on current analysis of the program, the Air Force expects low rate initial production of LRSO to being in approximately 2025, while the current ALCM will be sustained through 2030. Until the planned AoA is completed, DoD will not have a basis for accurately estimating subsequent costs.

Mr. CORKER. Mr. President, the reason I want that entered into the RECORD, over the next 10 years, what this calls for is $86 billion—$86 billion—worth of investment throughout the seven facilities throughout our country on nuclear armaments and over $100 billion on the delivery mechanisms to ensure that these warheads are deliverable.

So one might say: Well, that is great, but how are we going to be sure? How are we going to be sure the appropriators actually ask for the money?

Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed on December 16 by Chairman INOUYE, Senators DIANNE FEINSTEIN, THAD COCHRAN, and LAMAR ALEXANDER.

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

U.S. SENATE,
Washington, DC, December 16, 2010.

THE WHITE HOUSE,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for ratification of the New START Treaty and full funding for the modernization of our nuclear weapons arsenal, as outlined by your updated report that was mandated by Section 1251 of the Defense Authorization Act for Fiscal Year 2010.

We also ask that, in your future budget requests to Congress, you include the funding identified in that report on nuclear weapons modernization. Should you choose to limit non-defense discretionary spending in any future budget requests to Congress, funding for nuclear modernization in the National Nuclear Security Agency's proposed budgets should be considered defense spending, as it is critical to national security and, therefore, not subject to such limitations. Further, we ask that an updated 1251 report be submitted with your budget request to Congress each year.

We look forward to working with you on the ratification of the New START Treaty and modernization of the National Nuclear Security Agency's nuclear weapons facilities. This represents a long-term commitment by each of us, as modernization of our nuclear arsenal will require a sustained effort.

Sincerely,

DANIEL K. INOUYE.
DIANNE FEINSTEIN.
THAD COCHRAN.
LAMAR ALEXANDER.

Mr. CORKER. Mr. President, that letter says to the President that they will ask for the moneys necessary to modernize our nuclear arsenal; that they agree to ask for that money as part of their appropriations bill.

So, then, you might say: Well, what about the President? Will the President actually, in his budget, ask Congress to ask for that money?

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the President of the United States, dated December 20, addressed to the appropriators who just wrote the letter I mentioned, saying that he, in fact, will ask for those funds in the budget he puts forth in the next few months.

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

THE WHITE HOUSE,
Washington, December 20, 2010.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: Thank you for your letter regarding funding for the modernization of the nuclear weapons complex and for your expression of support for ratification of the New START Treaty.

As you know, in the Fiscal Year 2011 budget, I requested a nearly 10 percent increase in the budget for weapons activities at the National Nuclear Security Administration (NNSA). In May, in the report required by Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, I laid out a 10 year, $80 billion spending plan for NNSA. The Administration submitted an update to that report last month, and we now project over $85 billion in spending over the next decade.

I recognize that nuclear modernization requires investment for the long-term, in addition to this one-year budget increase. That is my commitment to the Congress—that my Administration will pursue these programs and capabilities for as long as I am President.

In future years, we will provide annual updates to the 1251 report. If a decision is made to limit non-defense discretionary spending in any future budget requests, funding for nuclear modernization in the NNSA weapons activities account will be considered on the same basis as defense spending.

In closing, I thought it important for you to know that over the last two days, my Administration has worked closely with officials from the Russian Federation to address our concerns regarding North Korea. Because of important cooperation like this, I continue to hope that the Senate will approve the New START Treaty before the 111th Congress ends.

Sincerely,

BARACK OBAMA.

Mr. CORKER. Mr. President, there has been a lot of discussion about many things—and I will get to missile defense in just one moment—but I don't think there is anything, as it relates to nuclear issues, that threatens our national security more than our not investing in the arsenal we have. I think what we see is a commitment by appropriators on the Senate side, the President of the United States, those within the NNSA and our military complex who believe modernization has to occur.

Candidly, the only thing today that would keep us from actually doing modernization the way it needs to be done would be Republican appropriators. So I just wish to say to my friends on this side of the aisle, it seems to me, through Senator KYL's efforts and the efforts of people working in a cooperative way, we have been very successful in getting the commitments we need on modernization.

By the way, I would add, I do not think we would be talking about the issue of modernization today—something that hasn't been done for many years to this scale—if it were not for discussions of the START treaty. So I say to the Chair, I think we have enhanced our country's national security just by having this debate, and I would say we have sought and received commitments that otherwise we would not have received if it were not for the discussion of this treaty.

The two are very related. I have heard a lot of people say there is no real relationship between the two. There is a lot of relationship between the two, in that I think Americans want to know if we are going to limit ourselves to 1,550 warheads, that we know they operate, we know they can be delivered, and we know the thousands of warheads we have that are not deployed are warheads that will be kept up.

We have talked a lot about missile defense, and I just wish to say I have been through every word of this treaty, I have been through every word of the annexes, I have been through every word of the protocols and I have been in countless briefings and there is nothing in this treaty that limits our missile defense other than the fact that we cannot convert ICBM launchers that we use on the offense for missile defense—something our military leaders do not want to do. That is the most expensive way of creating a missile defense system. That is something they do not want to do.

So a lot of discussions have been brought up because in the preamble something was stated that was nonbinding. How do we clear that up? We clear that up by virtue of a letter the President has sent to us absolutely committing to the missile defense system that is now being deployed in Europe, absolutely committing to a national defense system. People might say: Well, but that is no commitment.

I have reasonable assurance that by the time this debate ends we will codify, as part of the resolution of ratification, the operative words in the President's language committing to all four phases of our adaptive missile system in Europe, committing to those things we need to do as relates to our national defense system and making that a part of the resolution of ratification.

I would say to you that I doubt very seriously we would have received the types of commitments, the strident commitments from the President as relates to missile defense today, if we were not debating this treaty.

Mr. President, I ask unanimous consent that Senator LAMAR ALEXANDER be added as a cosponsor to my amendment, amendment No. 4904, dealing with ensuring the President's language becomes a part of this resolution of ratification.

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

Mr. CORKER. Mr. President, let me conclude by saying it is obviously up to us, as Senators. We are the ones who have the right and the responsibility and the privilege to take up the types of matters we are taking up today. It is up to us to do the due diligence, to have the intelligence briefings, to look at our nuclear posture reviews, to look at what this treaty itself says, and to look at what our force structure is. That is our responsibility. It is up to each of us, the 100 of us in this body, to decide whether we ratify this treaty. But I think it is also at least interesting to get input from others.

One of the things our side of the aisle likes to do is we like to listen to military leaders and what they have to say about issues relating to the war—Afghanistan or Iraq—and certainly the issue of how we enter into nuclear treaties with other countries.

I will ask to have printed in the RECORD a letter to Senator KERRY from the Joint Chiefs of Staff talking about their firm commitment for the START treaty on the basis that it increases our national security.

I ask unanimous consent to have printed in the RECORD this letter dated December 20 from ADM Mike Mullen, Chairman of our Joint Chiefs.

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

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, December 20, 2010.

Hon. JOHN F. KERRY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

MR. CHAIRMAN, Thank you for your letter of 20 December asking me to reiterate the positions of the Joint Chiefs of Staff on ratification of the New START Treaty and several related questions.

This treaty has the full support of your uniformed military, and we all support ratification. Throughout its negotiation, Secretaries Clinton and Gates ensured that professional military perspectives were thoroughly considered. During the development of the treaty, I was personally involved, to include two face-to-face negotiating sessions and several conversations with my counterpart, the Chief of the Russian General Staff, Gen Makarov, regarding key aspects of the treaty.

The Joint Chiefs and I—as well as the Commander, U.S. Strategic Command—believe the treaty achieves important and necessary balance between four critical aims. It allows us to retain a strong and flexible American nuclear deterrent that will allow us to maintain stability at lower levels of deployed nuclear forces. It helps strengthen openness and transparency in our relationship with Russia. It will strengthen the U.S. leadership role in reducing the proliferation of nuclear weapons. And it demonstrates our national commitment to reducing the worldwide risk of a nuclear incident resulting from proliferation.

More than a year has passed since the last START inspector left Russian soil, and even if the treaty were ratified by the Senate in the next few days, months would pass before inspectors could return. Without the inspections that would resume 60 days after entry into force of the treaty, our understanding of Russia's nuclear posture will continue to erode. An extended delay in ratification may eventually force an inordinate and unwise shift of scarce resources from other high priority requirements to maintain adequate awareness of Russian nuclear forces. Indeed, new features of the treaty's inspection protocol will provide increased transparency for both parties and therefore contribute to greater trust and stability.

The Joint Chiefs and I are confident that the treaty does not in any way constrain our ability to pursue robust missile defenses. We are equally confident that the European Phased Adaptive Approach to missile defense

will adequately protect our European allies and deployed forces, offering the best near- and long-term approaches to ballistic missile defense in Europe. We support application of appropriately modified Phased Adaptive Approaches in other key regions, as outlined in the Ballistic Missile Defense Review Report.

I can also assure you that U.S. senior military leaders monitored very closely all provisions related to conventional prompt global strike (CPGS) throughout the negotiation process. During that process, the Russian Federation publicly declared on several occasions that there should be a ban on placement of conventional warheads on strategic delivery systems. In the end, we agreed that any reentry vehicle (nuclear or non-nuclear-armed) contained on an existing type of ICBM or SLBM would be counted under the central limits of the treaty. Importantly, the New START Treaty allows the United States not only to deploy CPGS systems but also to continue any and all research, development, testing, and evaluation of such concepts and systems. It is true that intercontinental ballistic missiles with a traditional trajectory would be accountable under the treaty, but the treaty's limits accommodate any plans the United States might pursue during the life of the treaty to deploy conventional warheads on ballistic missiles.

Further, the United States made clear during the New START negotiations that we would not consider non-nuclear, long-range systems, which do not otherwise meet the definitions of the New START Treaty (such as boost-glide systems that do not fly a ballistic trajectory), to be accountable under the treaty.

Finally, I am comfortable that the Administration remains committed to sustainment and modernization of the nuclear triad and has outlined its plans to do so in the so-called Section 1251 report to Congress, as well as a recent update to that report and a letter from Secretary of Defense Gates to Senator Lugar dated 10 December. Plans for sustainment and replacement of current ICBMs, ballistic missile submarines, heavy bombers, and air launched cruise missiles are in various stages of development, in a process that will be implemented over the next three decades and across multiple administrations.

The Administration's proposed ten-year, $85B commitment to the U.S. nuclear enterprise attests to the importance being placed on nuclear deterrence and the investments required to sustain it—especially given the country's present fiscal challenges. The increased funding commitment, if authorized and appropriated, allows the United States to improve the safety, security, and effectiveness of our nuclear weapons and develop the responsive nuclear weapons infrastructure necessary to support our deterrent. I also fully support a balanced Department of Energy program that sustains the science, technology, and engineering base.

In summary, I continue to believe that ratification of the New START Treaty is vital to U.S. national security. Through the trust it engenders, the cuts it requires, and the flexibility it preserves, this treaty enhances our ability to do that which we in the military have been charged to do: protect and defend the citizens of the United States. I am as confident in its success as I am in its safeguards. The sooner it is ratified, the better.

Sincerely,

M.G. MULLEN,
Admiral, U.S. Navy.

Mr. CORKER. Mr. President, I would like to point out, too, just for clarification, if you look at the makeup of our Joint Chiefs—Admiral Mullen, General Cartwright, General Schwartz, General Casey, Admiral Roughead—every single one of these gentlemen was appointed by a Republican President. In addition to them, we have General Amos. My sense is, based on some of the comments he has made over the course of time, he would have Republican leanings. But all of these people have firmly stated their support for this treaty.

In closing, I will also ask unanimous consent that the statement of Robert Gates, again appointed by a Republican President, head of our Defense Department, where yesterday he said:

The treaty will enhance the strategic stability at lower numbers of nuclear weapons, provide a rigorous inspection regime including on-sight access to Russian missile silos, strengthen our leadership role in stopping the proliferation of nuclear weapons, and provide the necessary flexibility to structure our strategic nuclear forces to best meet the national security interests.

This treaty stands on its merits and its prompt ratification will strengthen U.S. national security.

I ask unanimous consent that this be printed in the RECORD.

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

[From the U.S. Department of Defense, News Release, Dec. 21, 2010]

STATEMENT BY SECRETARY ROBERT GATES ON THE NEW START TREATY

I strongly support the Senate voting to give its advice and consent to ratification of the New START Treaty this week.

The treaty will enhance strategic stability at lower numbers of nuclear weapons, provide a rigorous inspection regime including on-site access to Russian missile silos, strengthen our leadership role in stopping the proliferation of nuclear weapons, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security interests.

This treaty stands on its merits, and its prompt ratification will strengthen U.S. national security.

Mr. CORKER. There has been a lot of discussion about the role of the Senate in this ratification. There are a lot of things that go into the ratification of a treaty. I have laid out a number of things we have discussed that are relevant to the ratification of this treaty.

As we move through a process such as this, I try to make sure all of the t's are crossed and i's are dotted that can possibly be crossed and dotted to ensure that I, as a U.S. Senator, feel comfortable that the type of agreement we are entering into is one that is in the best interests of our country. I have done that over the last year working on nuclear modernization. Again, my hat is off to Senator KYL and his great leadership in that regard. I have done that over the course of this last year as we have looked at missile defense. We spent incredible amounts of time in our committee making sure people on my side of the aisle had tremendous input into the resolution of ratification. We have worked through to make sure that if we are going to have fewer warheads deployed—again, we have thousands more that are not deployed—that we, in fact, can assure the American people that they will operate, that they are actually there for our national security.

The question for me and for all of us who care so deeply about our country's national security is, Will we say yes to yes? I firmly believe that signing this treaty, that ratifying this treaty, and that all the things we have done over the course of time as a result of this treaty are in our country's national interest, and I am here today to state my full support for this treaty. I look forward to its ratification, and I hope many others will join me in that process.

I yield the floor.

Mr. UDALL of Colorado. Mr. President, before I begin the focus of my remarks and the reason I came to the floor, I wish to commend the Senator from Tennessee for his thoughtful remarks and what I think is a thoughtful and important position he is taking on the START treaty. I listened with great interest, and I learned additional information about the importance of putting this treaty in effect. I also acknowledge the Senator's concerns about missile defense, about tactical nuclear weapons, and the other concerns that have been raised in this very important and obviously historic debate on the floor of the Senate. I thank the Senator from Tennessee for his leadership.

TRIBUTES TO RETIRING SENATORS

ARLEN SPECTER

I also wanted to associate myself with the remarks of Senator BENNET, the Senator from Colorado, in regard to Senator SPECTER's farewell address to the Senate. In particular, I think Senator SPECTER laid out a thoughtful and comprehensive way we can change the Senate rules in the upcoming 112th Congress in ways that respect the rights of the minority but also provide the Senate with some additional ways to do the people's business.

I know the Presiding Officer spent significant time on finding a way forward for the Senate. I look forward to the debate that will begin when we convene in just a couple of weeks for the 112th Congress.

NOMINATION OF WILLIAM MARTINEZ

Let me turn to the reason I came to the floor initially, and that is to urge my colleagues to support an outstanding nominee to the Federal bench, Mr. William Martinez. Bill's story is an inspirational one, and I will share that with you in a moment, but I wanted to first talk about why there is such an urgency to confirm this fine nominee.

The situation in our Colorado District Court is dire, and I don't use that word lightly. There are currently five judges on the court and two vacancies, both of which are rated as judicial emergencies by the Administrative Offices of the U.S. Courts. These five judges have been handling the work of seven judges for nearly 2 years. It has

been over 3 years since our court had a full roster of judges.

I know the Presiding Officer is familiar with the need for a fully stocked Federal bench as a former attorney general.

There is even more to the story. In 2008, based on the significant caseload in Colorado, the Judicial Conference of the United States recommended the creation of an eighth judgeship on the Colorado District Court.

This is a pressing situation, but I know it is not unique just to Colorado. Of the 100 current judicial vacancies, 46 are considered judicial emergencies—almost half of those vacancies. I understand the Senate has confirmed just 53 Federal circuit and district court nominees since President Obama was elected, including the judges over the last weekend. This is half as many as were confirmed in the first 2 years of the Bush administration and represents a historic low, which, no matter who is to blame, is very detrimental to our system of justice.

Bill Martinez was nominated in February of this year, had a hearing in March, and was referred favorably by the Judiciary Committee to the full Senate in April. So today his nomination has been sitting on the Senate's Executive Calendar for over 8 months.

I am not going to complain about partisan delays, although I know this continues to plague the Senate. Instead, in hope that we might improve the nomination process, I want my colleagues to hear the real effect of imposing these delays on nominees.

The people of Colorado deserve well-qualified justices, but what the Senate put Bill Martinez through should make each of us question where our priorities are—and I say that because, unlike other judicial nominees before the Senate, Bill Martinez' life has been turned upside down because of this delay in his confirmation. While many other nominees—and I don't begrudge them this—continued their judicial careers because they were sitting on the bench, he has essentially had to dismantle his law practice to avoid Federal conflicts and even limit taking clients to ensure they continue to receive representation once he is confirmed. Both his life and his livelihood have been put on hold just because he was willing to become a dedicated public servant. If we continue this record or this habit of needlessly delaying judicial nominations, we risk chasing off qualified nominees such as Bill Martinez.

His long and winding road began last year when Senator BENNET and I convened a bipartisan advisory committee, chaired by prominent legal experts in Colorado, to help us identify the most qualified candidates for the Federal bench. The committee interviewed many impressive individuals, and then, based on his life experience, his record of legal service, and his impressive abilities, both Republicans and Democrats on this panel together recommended Bill Martinez for a Federal judgeship. The President agreed and then subsequently nominated Bill for the vacant judgeship I mentioned.

There is no doubt that being nominated for a Federal judgeship is a prestigious honor, but since being nominated, Senate delays have not only affected Bill and his family, but those delays have sent a discouraging message to future nominees. Despite these disruptions the process has caused for Bill and the dangerous precedent his delay may have set, I am relieved that the Senate is finally giving this qualified candidate the confirmation vote he deserves today.

I have spoken about his impressive intellect and experience on the floor before, but in advance of my vote, I would like my colleagues to hear one more time why Bill Martinez was selected by the bipartisan advisory committee for this judgeship.

In addition to being an accomplished attorney and a true role model in our community in Colorado, he has a personal story that captures what is great about America and highlights what can be accomplished with focus, discipline, and extraordinary hard work.

Bill was born in Mexico City, and he immigrated lawfully to the United States as a child. He worked his way through school and college and toward a career in law, becoming the first member of his family to attend college. He received undergraduate degrees in environmental engineering and political science from the University of Illinois and earned his law degree from the University of Chicago.

As a lawyer, Bill has become an expert in employment and civil rights law. He first began his legal career in Illinois, where he practiced with the Legal Assistance Foundation of Chicago, litigating several law reform and class action cases on behalf of indigent and working-class clients. For the last 14 years, he has been in private practice and previously served as a regional attorney for the U.S. Equal Employment Opportunity Commission in Denver.

As you can imagine, over the years Bill has been a very active member of the Denver legal community. During the 1990s, he was an adjunct professor of law at the University of Denver College of Law and has been a mentor to minority law students. He is currently vice chair of the Committee on Conduct for the U.S. District Court for the District of Colorado, and he has been a board member and officer of the faculty of Federal Advocates.

Bill also sits on the board of directors of the Colorado Hispanic Bar Association, where he serves as the chair of the bar association's Ethics Committee. More recently, he was appointed by the Colorado Bar Association to the board of directors of Colorado Legal Services and by the chief justice of the Colorado Supreme Court to the Judicial Ethics Advisory Board.

Like all of us, I believe in a strong, well-balanced court system that serves the needs of our citizens. Bill Martinez will bring that sense of balance because of his broad legal background, professionalism, and his outstanding intellect. I am proud to have recommended Bill, and I am certain that once confirmed he will make an outstanding judge.

Before I conclude, I did want to give special acknowledgment to my general counsel, Alex Harman, who has worked night and day on this nomination. Alex has worked tirelessly to see that Bill Martinez receives the vote he deserves, and I want to acknowledge him here on the floor of the Senate.

I ask my colleagues to give their full support to this extraordinary candidate and vote to confirm his nomination to the Colorado District Court as a new Federal judge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I appreciate the words from the senior Senator from Colorado. His comments about the delays in the judicial process here, the selection of Federal judges, the nomination and confirmation, are identical to the situation for so many of the rest of us. Very qualified people are put forward. At times, the White House, perhaps, didn't move as fast as we would like. But the delays on these judges is pretty outrageous.

NOMINATION OF BENITA PEARSON

Judge Pearson, who sits as a U.S. magistrate in the Northern District Court in Ohio, didn't have the same disruption in her life as soon-to-be, I hope, Justice Martinez had, having a law practice to put aside and having to wrap it up and figure out all that, but she has waited since February when Senator LEAHY and his Judiciary Committee voted her out, had a wait of 9 months, almost 10 months, until we are about ready to confirm.

I speak perhaps in criticism of the other party but, more importantly, how do we fix this so people are not dissuaded, discouraged from wanting to fill these very important jobs?

When I interview potential judicial candidates, I always ask them: Are you willing to put your life on hold for at least a year before you can actually be confirmed and sworn in, if it gets to that?

All are surprised, some are shocked, and some walk away and say: Find somebody else. That is going to start happening. So I thank the Senator from Colorado and his comments.

I rise in support of another very strong candidate for a Federal judgeship, the nomination of Magistrate Judge Benita Pearson to become a judge in the U.S. District Court in the Northern District of Ohio.

Magistrate Pearson will make an excellent addition to the bench. That is not just my opinion. She has tremendous support from the judges with whom she serves today and whose ranks she will soon join. She knows them from her work, obviously, as a

magistrate. Judge James Carr, the chief U.S. district judge at the time of her nomination, lauded Judge Pearson as ''a splendid choice . . . eminently well-qualified by intelligence, experience . . . and judicial temperament.'' Judge Carr's successor, Solomon Oliver, who now is the chief U.S. district judge, is just as supportive of her nomination.

Support for that nomination extends throughout the State. The other day when I gave a few remarks in the wake of Senator VOINOVICH's farewell address, I neglected to mention how much I appreciated Senator VOINOVICH's cooperation in the process of selecting candidates for nomination to the Federal bench.

Senator VOINOVICH and I did something, and I do not know if any other Senator in this body does this, any other pair of Senators—I do know nobody in Ohio has done this—I asked Senator VOINOVICH, as the Senator from the President's party—and, generally, by tradition, the Senator who suggests nominees to the President—I asked Senator VOINOVICH to be part of the selection system with me. We chose 17 people. We chose 17 people from northern Ohio to interview Southern District of Ohio potential judges, and 17 people in southern Ohio—central and southern Ohio—to interview prospective judges for the Northern District.

These panels, one of them was a Republican majority, the other was a democratic majority, I believe, by one vote. These panels met, took this job very seriously. Each of the 17 people was given the name of a candidate, one of the people who was applying to interview, references and all that. Each candidate got an hour in front of the 17-member committee, this Commission we appointed, and were subjected, after filling out a very lengthy questionnaire designed, again, bipartisanly by my predecessor, Republican Senator DeWine, in large part, to, after filling out this questionnaire, testifying, spending an hour in front of this panel of 17 very distinguished judges, some who are lawyers, some, I believe, former judges, all people who were very interested in the Federal judiciary.

Anybody who came out of that had to have a strong supermajority recommendation from the 17. I then interviewed the top three, made the selection, cleared it with Senator VOINOVICH, and brought the name forward.

That produced Judge Timothy Black, who has been confirmed, sits in the Southern District. It also produced Judge Benita Pearson. A similar selection committee, not identical but a similar selection committee, enabled me, helped me come to the conclusion to reappoint a Bush appointee to the U.S. marshal's job in Cleveland, Pete Elliott, to appoint the first—to send to the President, nominate, and confirm the first female U.S. marshal in the Southern District of Ohio, Cathy Jones, and then the first African-American U.S. attorney in Columbus, and a very qualified U.S. attorney in Cleveland.

So that is the process we have in Ohio to make sure we get the best qualified people. As I said, they put in a tremendous amount of time and energy, and I wish to thank those 17 members of each of those Commissions, the 34 people who served again from both parties, prominent jurists and lawyers and community activists, to come up with Judge Pearson and others.

Judge Pearson currently resides in Akron but was born in Cleveland. I got a chance to meet her mother and many of her family and friends almost 1 year ago when she testified before the Judiciary Committee. They were understandably proud of her, her achievements, and the honor of her nomination, certainly, but I got the sense they were most proud of her as a daughter, as a sister, as a family member. Nobody knows us better than our family.

Judge Pearson earned her J.D. from Cleveland State University, her bachelor's degree from Georgetown. Before law school, she spent several years as a certified public accountant. I asked her how being a CPA would help her in the judiciary as a judge. She said you can tell stories with numbers. She smiled when she said it. She, clearly, had kind of thought through what this means to be a Federal judge and what qualifications she brings. Throughout her career, Judge Pearson has litigated and presided over a range of criminal and civil matters, including housing, public corruption cases. In addition to her work as a magistrate judge since 2008, her legal experience includes serving as an adjunct professor at Cleveland State's law school, 8 years as an assistant U.S. attorney in Cleveland, the Northern District, and several years in private practice.

If confirmed, Judge Pearson will become the first African-American woman to serve as a Federal judge in Ohio. She will also be the only U.S. district judge in the Youngstown courthouse, which, because of delays here, for no apparent reason, has lacked a judge since this past summer.

Last year, at the Akron Bar Association's annual Bench-Bar luncheon, she urged attorneys to improve in two ways: to be better prepared to litigate their cases and to be more civil to one another. Good advice to this body and for all of us, I suppose, in our daily lives.

Judge Pearson's community service includes more than a decade of ongoing work as a board member of Eliza Bryant Village. Eliza Bryant Village is a multifacility campus, providing services for impoverished elderly citizens. It was founded and named after the daughter of a freed slave.

The facility began simply as a nursing facility built to serve Eliza's mother and other African Americans who had been turned away from nursing homes simply because of their race.

Judge Pearson's background as a prosecutor, as a private attorney, as a CPA, and as a Federal magistrate make her uniquely qualified to serve as U.S. district judge. Members of the law enforcement and legal community throughout northern Ohio have attested to Judge Pearson's ability and impartiality. As a magistrate and prosecutor, she, of course, as I said, is supported by our State's senior Senator, Republican GEORGE VOINOVICH. First assistant U.S. attorney, David Sierlega, for example, called Judge Pearson ''an extremely hardworking bright lawyer'' with an exemplary track record in handling public corruption cases.

When asked to describe the ''most significant legal activities'' she has been engaged in, Judge Pearson replied: ''My most significant legal activity has been my steadfast commitment to administering equal justice for all . . . the poor and the rich, the likable and unlikable . . . the first-time offender and the repeat offender.''

At the end of the day, it is this demonstrated commitment to equal justice, delivered after thorough consideration and fidelity to the law, that distinguishes Judge Pearson as an invaluable asset to Ohio's judicial system.

I urge my colleagues, this afternoon, to quickly confirm her in her new position as U.S. district judge for the Northern District of Ohio.

I would close with thanking two people on my staff who have gone above and beyond the call of duty: Mark Powden, my chief of staff, who has, almost weekly, spoken with Judge Pearson, talking about the delays and what is going to get this back on track and how are we going to get her confirmed. I appreciate the work Mark Powden has done. And Patrick Jackson in her office, who, while all this was going on, was getting married. He got married earlier this month, and he was doing that at the same time as we were doing all this. I am grateful to both of them. I thank my colleagues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LITTORAL COMBAT SHIP

Mr. SHELBY. Mr. President, I rise today in support of the Navy's acquisition strategy to purchase 20 littoral combat ships, LCS.

The Navy's plan would allow 20 littoral combat ships to be awarded to two shipyards: Austal, which will build 10 ships in Mobile, AL, and Lockheed Martin, which will build 10 ships in Wisconsin.

Under the new procurement strategy, our sailors will receive the ships they need to operate in shallow waters and

combat the threats of surface craft, submarines, and mines. These ships will be used for a variety of security issues from sweeping for mines in coastal waters to fighting pirates and chasing drug smugglers. They are a needed asset for our Navy.

The Navy's dual acquisition plan, included in the continuing resolution, brings significant advantages to the LCS program.

Our Navy will receive this capability faster, bring assets into operational service earlier, and will assist the Navy in reaching a 313-ship Navy sooner.

The LCS strategy will stabilize the program and the industrial base with an initial award of 20 ships. This will sustain competition throughout the life of the program.

It is critical to ensure that the capabilities of our naval fleet are the very best and that our Armed Forces receive the equipment they need in executing future operations.

However, as the foundation of our ability to project force globally for the next half century, we must obtain the best platform for the taxpayer investment.

The LCS dual award does both.

The dual procurement of the LCS will bring tremendous cost savings to the program that would not have been realized had the Navy moved forward with a down select of designs.

According to the Navy, the acquisition savings for a dual award is projected to be $2.9 billion as measured against the President's fiscal year 2011 request. Of these savings, approximately $1 billion is directly attributable to the dual award.

Acquisition decisions made in the near term will affect fleet effectiveness and operating costs for decades to come.

This is the best outcome for all involved. The Navy will be able to obtain the best solution for the taxpayer investment.

I urge my colleagues to support the dual acquisition strategy included within the continuing resolution.

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

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

The PRESIDING OFFICER. The Senator from Alabama.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, through the Chair to my friend from Alabama, would it be agreeable to the Senator that I do a UC request so we can find out what we are going to do?

Mr. SESSIONS. Mr. President, I would be pleased to yield to the majority leader for that. And if I could ask consent to be recognized afterward. I would note I did have time set aside for these remarks.

Mr. REID. Yes. I understand.

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that at 2 p.m. today, all postcloture time be considered expired and that the second-degree amendment be withdrawn; that no further amendments or motions be in order; that the Senate then proceed to vote on the Reid motion to concur in the House amendment to the Senate amendment to H.R. 3082 with amendment No. 4885; that upon disposition of the House message, the Senate proceed to executive session to consider Executive Calendar Nos. 703 and 813; that all time under the order governing consideration of the nominations be yielded back, except for 8 minutes to be divided 4 minutes on each nomination, equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of all time with respect to the two nominations, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon disposition of the nominations, the other provisions of the order remain in effect, except that the Senate remain in executive session and there then be 4 minutes of debate, equally divided and controlled between the leaders or their designees, prior to the vote on the motion to invoke cloture on the New START treaty; that upon the use of the time, the Senate then proceed to vote on the motion to invoke cloture on the treaty; that after the first vote in this sequence, the second and third votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Members have until 1:30 p.m. today to file any germane second-degree amendments to the New START treaty.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I further ask unanimous consent that following Senator SESSIONS, Senator HARKIN then be recognized, to be followed by Senator VOINOVICH for up to 20 minutes.

I say to my friend from Iowa, how much time—15 minutes.

Does that give us enough time to do all that? It appears it does. So Senator HARKIN would be recognized for 15 minutes and then Senator VOINOVICH for 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I was pleased to yield to the majority leader and just observe that although we do fuss a lot around here, many things are done by agreement. Senator REID has obviously talked with the Republican leaders and reached this agreement on how we can proceed on some of these matters, and I was pleased to yield to him.

Mr. REID. Mr. President, I would say to my friend from Alabama, my friend from Alabama and I do not always agree on the substantive issues, but there is no one more of a gentleman and easier to work with than the Senator from Alabama, Mr. SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama.

NOMINATION OF WILLIAM MARTINEZ

Mr. SESSIONS. Mr. President, I rise to speak on the President's nomination of Mr. William Martinez to the United States District Court for Colorado. I will oppose the nomination, and I have several reasons for doing so. He has a lot of good friends and people who respect him and like him, but we are trying to make a decision about a lifetime appointment to the federal district court. There are some concerns with this nomination that are serious and, in particular, trends of the President to nominate individuals with judicial philosophies outside the mainstream.

There is one reason in particular that concerns me about Mr. Martinez. It is his longtime affiliation with the American Civil Liberties Union and the questions we asked him about that were answered insufficiently for me. We have had a number of ACLU nominations. I have supported some and opposed others. The ACLU is a very left-wing organization. It seeks openly to defy the will of the American people in many lawsuits while at the same time they endeavor to undermine and oppose traditions and institutions that make up the very fabric of our culture, our national identity, and who we are as a people, assuming those things are insignificant and only pure philosophical approaches, as they have, of an extreme nature should guide our Nation.

Mr. Martinez has been a member of the ACLU in Colorado for nearly a decade, and since 2006 served on its legal panel. In this role he reviews memorandum prepared by ACLU staff and attorneys and decides whether to pursue litigation, a very significant post in that organization. Of course that is not disqualifying. One can be a member of an organization, even though some of us might not like it or agree with the organization. But any nominee from a conservative organization who takes extreme positions would certainly have to answer those positions and justify why they might take them. Likewise it is fair and appropriate to ask questions about this nominee and about this organization and whether the nominee agrees with them or why, if they don't agree, they are a member.

A lot of people say they didn't agree with this position or that position. I was left asking: Why are you a member? It is on their Web site.

When asked about some of the positions on important issues, he failed to

clearly respond and repeatedly refused to answer questions in a direct and clear manner. For example, at his hearing I asked whether he agreed with the ACLU's position that the death penalty was unconstitutional in all circumstances. He refused to answer. Instead he noted that the Supreme Court has held the death penalty constitutional, adding:

> What my view would be as a sitting Federal district judge is something that would be quite different from my views as a personal citizen or an advocate or a litigant and member of the ACLU.

I asked him whether he personally thinks the death penalty violates the Constitution and whether he had ever expressed that view. He again failed to answer, stating only that he had never expressed any view.

So I put the question to him again, and again he did not answer.

Let me stop and say why I think this is a very important issue. The Constitution was passed as a unified document with 10 amendments. The American people ratified it. Some people, in recent years, have come up with the ingenious idea that they could disqualify and eliminate the death penalty without a vote of the people, without the popular will to change laws that exist all over the country. They decided they could change it by finding something in the Constitution that would say the death penalty is wrong, and they reached out to the provision that says you should not have cruel and unusual punishment. They said the death penalty is cruel and unusual and is unconstitutional, which is not sound. Let me be respectful.

Why is that not a sound policy? There are multiple references in the Constitution to a death penalty. It talks about capital crimes, taking life without due process. it is in the Constitution. How could one say, when there are multiple provisions explicitly providing for the death penalty, how could we reach over here and take a position on cruel and unusual punishment which was designed to prevent people from being hung on racks and tortured and that kind of thing? But that is the ACLU position.

This nominee, who is going to be given a lifetime appointment, the power to interpret the Constitution on this very real issue of national import that good lawyers know about, refused to state that the Constitution is clear, that the death penalty is legal.

In fact, I note parenthetically that every Colony, every State had a death penalty at the time, and so did the United States Government. Surely the people, when they ratified it, had no idea that somebody coming along in 2000 would create the view that the Constitution prohibits the death penalty.

I also asked Mr. Martinez whether he agreed with the President's so-called empathy standard, but rather than state flatly that empathy should play no role in decisionmaking, as did Justice Sotomayor when she came up—she flatly said no, a judge has to be impartial; one should decide it on the facts and the law, not on feelings—he said that empathy ''can provide a judge with additional insight and perspective as to the intent and motivations of the parties appearing before the court.'' Empathy, to me, is far too much like politics, far too much like something other than law. It is certainly not law.

When a nominee such as Mr. Martinez, who has dedicated so much time and legal expertise to the ACLU, refuses to answer basic questions about these issues, it is fair and appropriate to conclude that perhaps he agrees with the other positions of the ACLU. I have done a little checking on that.

What is this organization of which he is a member? Some people like the position they take on this issue or that issue. But what overall are some of the policy and legal positions taken by the ACLU? Over the last several decades it has taken positions far to the left of mainstream America and the ideals and values the majority of Americans hold dear. Roger Baldwin, the ACLU's founder, was openly vocal about his support and belief in ''socialism, disarmament, and ultimately for abolishing the State itself as an instrument of violence and compulsion.''

He was quoted as saying:

> I seek social ownership of property, the abolition of the profited class and sole control by those who produce wealth. Communism is the goal.

Mr. Baldwin's influence and impact on the ACLU could not be overstated. As former ACLU counsel Arthur Hays says:

> The American Civil Liberties Union is Roger Baldwin.

As I mentioned earlier, the ACLU opposes the death penalty under any circumstances, even for child rapists. They filed a brief recently in Kennedy v. Louisiana arguing that a State could not apply the death penalty to a child rapist regardless of the severity of the crime or the criminal history unless the child died from his or her injuries. Here the defendant had raped his own 8–year-old stepdaughter and caused horrific injuries that a medical expert said were the most severe he had ever seen. The defendant had done the same thing to another young girl within the family a few years earlier. Even President Obama, when the case came before the Supreme Court, said he opposed that view. Yet President Obama continues to nominate a host of ACLU lawyers to the Federal bench and presumably has some sort of sympathy with the views they have been taking.

In recent years, the ACLU has litigated on behalf of sex offenders, including suing an Indiana city on behalf of a repeat sex offender who was barred from the city's park after he admitted stalking children who played there. Even though the convicted offender had admitted that he thought about sexually abusing the children in the park, the ACLU sued to give him full access to the park and the children. I agree with the mayor of the city who said:

> Parents need to be able to send their children to a park and know they are going to be safe, not being window shopped by a predator.

I would hope all nominees would share this view rather than the ACLU's position on the subject. Although many view the ACLU as a neutral defender of the Bill of Rights, the ACLU takes a very selective view of the rights it advocates.

That is just a fact. Otherwise, if they were defending the Constitution and what it says plainly, they would defend the constitutionality of the death penalty. It should not take them 2 seconds to figure that out. They have an agenda.

As it explains on its Web site, the ACLU openly disagreed with the Supreme Court's landmark ruling in the Heller case—the right to keep and bear arms—in Washington because the ACLU does not believe the second amendment confers an individual right to keep and bear arms. Well, OK. So the lawyers might disagree on that. But if this institution, this ACLU, is so committed to constitutional rights and opposes the power of the State, why would they not read the plain words of the second amendment: The right to keep and bear arms shall not be infringed. Why wouldn't they defend that individual right of free Americans to be armed and oppose the power of the State to take away what has historically been an American right? I think it represents and reveals a political agenda as part of this organization.

It also has a selective view of what exactly is protected by the first amendment. It has done some good work on the first amendment, the ACLU has, but it has gone to great lengths to limit freedom of religion, as provided for in the first amendment, suing religious organizations and groups such as the Salvation Army and even individuals and supported the removal of ''under God'' from the Pledge of Allegiance and ''in God we trust'' from our currency. It sued the Virginia Military Institute to stop the longstanding tradition of mealtime prayer for cadets. You do not have to bow your head if you go to lunch and somebody wants to have a prayer. Nobody makes you pray. But if other people want to take a moment before they partake of their meal and, say, acknowledge a bit of appreciation for the blessings they have received, what is wrong with that? I do not believe it violates the first amendment.

The Constitution says that you cannot establish a religion in America, and we cannot prohibit the free exercise of religion either. The establishment clause and the free exercise clause are both in that amendment. But the ACLU only sees one. They see everything as an establishment of religion.

The ACLU has also argued for the removal of religious symbols and scriptures from national parks and monuments and cemeteries that have stood for years regardless of how innocuous they may be.

I am very surprised we do not have the ACLU filing a lawsuit to deal with those words right over that door: ''In God We Trust.'' It won't be long. They will want to send in gendarmes with chisels to chisel it off the wall. It is an extreme view of the first amendment, and has never been part of what we understood the Constitution to be about. The reference in a public forum to a ''higher being'' is not prohibited by the Constitution—except in the minds of some extremists.

So the ACLU has argued for the removal of all vestiges of Christmas, going so far as to sue school districts to bar them from having Santa Claus at school events and threatening to sue if Christmas carols are sung anywhere on school grounds. Give me a break.

In addition, the ACLU has sought to limit or remove the rights of children to salute the U.S. flag, recite the Pledge of Allegiance, and openly pray.

It has sued the Boy Scouts—I am honored to have been an Eagle Scout at one time in my life—and government entities that have supported this honorable institution. It has sued them.

It has fought for the rights of child pornographers and against statutes seeking to stop its production and distribution or limit children's exposure to it. The ACLU absolutely not only opposes adult pornography laws, they oppose laws that prohibit child pornography, which is where so much of the problem of pedophilia occurs.

The ACLU has sought to overturn the will of the people by challenging numerous State laws that define marriage as between a man and a woman and has encouraged city mayors across the country to openly defy State law by granting same-sex marriage licenses, even in contradiction to law.

It has vehemently opposed the 1996 Defense of Marriage Act, calling it ''a deplorable act of hostility unworthy of the United States Congress.'' That passed a year before I came here—not too long ago. It just said that if one State allows a marriage to be between members of the same sex, another State would not be forced to acknowledge it and recognize it. That is what the Defense of Marriage Act did, and it passed here not too many years ago.

The ACLU has consistently opposed all restrictions on abortion—all restrictions—including partial-birth abortion, the Unborn Victims of Violence Act, and statutes requiring parental notification before a minor child can have an abortion. If they want to defend the innocent against wrongdoing, what about defending a child partially born whose life is taken from them? The ACLU's extreme advocacy on abortion would force even religious health care providers—doctors and nurses—to perform abortions as a condition of Medicare or Medicaid reimbursement eligibility. A doctor could not say: I will treat you, but I don't do abortions. Oh, if you take Medicare or Medicaid money, then under the ACLU's position, you would have to do so.

According to the ACLU:

> There is no basis for a hospital to impose its own religious criteria on a patient to deny [her] emergency care.

So this type of religious liberty is not, I think, what the Founders said. I do not think a hospital that is founded on personal values and has certain moral values should be required to give them up as a capitulation to State domination, which is what they were asking for actually, having the State be able to tell a hospital that did not believe in abortion.

What about other issues that may come up, such as end-of-life issues. Hospitals ought to be able to have—and doctors and nurses should be able to have moral views about those matters and not do something they think is wrong and not have to give up their practice or their hospital in order to comply with what this group thinks is the right way to do business.

So those are some of the examples of the ACLU's out-of-the-mainstream point of view. It is no secret that this administration shares this kind of legal reasoning. This is, of course, one of a long line of ACLU nominees whom we have seen, and this kind of reasoning and legal thought is well to the left of and out of touch with the American people and, I think, for the most part, established law. It seeks to impose its liberal progressive agenda any way it can, including by filing lawsuits and having judges—unelected lifetime appointed judges who have been popped through the Senate—ratify what the people who filed the lawsuits want to achieve as a matter of policy, not being neutral umpires who adjudicate disputes and decide them narrowly but to try to use the courts as a vehicle to advance an agenda. That is what has really been at the core of the debate in recent years over judicial nominations.

So it is not surprising that many of the President's judicial and executive branch nominees have been deeply involved in the ACLU—many of them. For example, President Obama's first nominee, Judge David Hamilton, who was confirmed to the Seventh Circuit last year, was a leading member of the Indiana Civil Liberties Union for 9 years, where he served as a board member and its vice president for litigation. Judge Gerard Lynch, who now sits on the Second Circuit, was a cooperating attorney and member of the ACLU for 25 years. Judge Rogeriee Thompson, who was confirmed to the First Circuit earlier this year, had been a member of the ACLU for 10 years. Judge Dolly Gee, who now sits on the District Court for the Central District of California, had been a member of the ACLU for 9 years. Carlton Reeves, who was confirmed two days ago to the Southern District of Mississippi, was a member for 12 years and served as a board member.

Three of President Obama's most controversial judicial nominees have had extensive involvement with the ACLU. Edward Chen, nominated to the Northern District of California, was a staff attorney on staff and member of the ACLU of Northern California for 16 years. Goodwin Liu, a professor, one of the most extreme nominees now pending, was nominated to the Ninth Circuit, already the most activist circuit in America. He was a member of the board of directors of the ACLU of northern California for years. Jack McConnell, nominated to the district of Rhode Island, was a volunteer lawyer for the ACLU as recently as last year.

A number of nominees who were recently considered by the Judiciary Committee also have significant ties to the ACLU. Amy Totenberg, nominated to the Northern District of Georgia, has been a member for 21 years. Robert Wilkins, nominated to the District of DC, was also a member. Michael Simon, nominated to the District of Oregon, has been a member since 1986. He served on the lawyers committee and the board of directors and as its vice president for legislation and vice president for litigation.

That is more than I thought when we started going back and looking at this. I am sure less than 1 percent of the lawyers in America are members of the ACLU, but it seems if you have the ACLU DNA, you get a pretty good leg up on being nominated by this President. It is clear the President, our President, a community activist, a liberal progressive, as his own friends have described him, and former law professor is attempting to pack the courts with people who share his views and who will promote his vision of, as he has said about judges, what America ''should be.'' That was his phrase. He said, We want judges who help advance a vision of what America should be.

But that is not good. We all have visions of what America should be. I wish to see us be a more frugal nation, more local government, more individual responsibility. I do not support cradle-to-grave government. His vision is what? That we want judges on the bench promoting an agenda because they were picked by a President who shares that agenda? That is not the classical American heritage of what judges should be about. Judges should take the bench and they should attempt, as objectively as they possibly can, having put on that robe and having taken an oath to do equal justice to the poor and the rich, and to be not a respecter of persons, but to analyze that case objectively and decide it based on the law and the facts, not on their empathy and not on what their vision of what America should be because it may not be what the people's vision is.

Democracy is undermined if a judge gets on the bench and feels that they

can promote visions. I have to tell my colleagues, they are not appointed to be vision promoters. They are appointed to decide the strict matters of law and fact, to the best of the ability the Lord gives them.

We can't stand idly by and allow that heritage of law that benefits us so greatly, the American rule of law and the greatest strength this Nation has, in my opinion, to be altered by promoting a Federal judiciary that is agenda oriented. Any individual—regardless of the position to which they have been nominated, to what kind of court position they are nominated to—who demonstrates unwillingness to subordinate his or her personal views, religious, political, ideological, social, liberal, or conservative. Conservatives can't promote their views, either—if they can't be faithful to the law and the Constitution, they should not be on the bench.

I am not going to support such nominees and no Senator should support them. I have given it a lot of thought. I know Mr. Martinez has had a long affiliation with the ACLU. He refused to give clear answers to these questions I posed to him. I am not convinced that those views, which I think are outside legitimate constitutional theory, have been objected to and are not by Mr. Martinez—indeed, it appears he supports them because he has not with clarity rejected a single one. He has not made any defense to participating in an organization that openly advocates these kinds of legal views.

We ask a lot of the nominees: Do you believe the Constitution prohibits the death penalty? They said, No. Even though they were part of an organization and some of them—a lot—have been confirmed and I have voted for a number of them, but I am not able to vote for this one.

I have to say this: We are paid to judge and to vote, and when it comes down to some of the positions taken by the ACLU—let's take the one that the Constitution prohibits the death penalty—are so extreme and are so nonlegal that if a person can't understand that, I have serious doubt that they can understand any other significant constitutional principle.

Therefore, I have concluded I would not be able to support the nominee, although I respect my colleagues who think he will do well. I certainly don't think he is a bad person. I think he is an able person who has a wonderful background, but his legal history evidences an approach to law that I think is outside the mainstream and I will oppose the nomination. We are not blocking a vote. We will allow him to have his up-or-down vote and Senators will cast their vote based on how they conclude it should be decided.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Ohio.

NEW START TREATY

Mr. VOINOVICH. Mr. President, I rise today to discuss the Senate's deliberation of the New START treaty and the treaty's implications for our friends and allies in Eastern and Central Europe and, more importantly, the national security of the United States.

On November 17, I came to the Senate floor to discuss my concerns about the treaty and the President's reset policy. Following my remarks, I received a significant amount of feedback—some positive, some critical—and throughout my deliberations on the treaty, my intention was to contribute to advancing this important debate in a meaningful way.

First, I wish to make it clear I remain concerned about the direction of Russia in terms of its commitment to human rights and an effort to reassert its influence over what Russia considers Eastern and Central Europe, their sphere of influence—those countries I often describe as the captive nations. One cannot ignore the statement of Vladimir Putin when he described the collapse of the Soviet Union as the greatest geopolitical catastrophe of the 20th century.

Two years ago, after listening to Russia's Foreign Minister Sergey Lavrov at the German Marshall Fund Forum in Brussels, I concluded that Russia's internal political dynamic suggested that its people were deeply concerned by the growth in U.S. influence through NATO expansion and incursion into their part of the world. The Russian people, it seems, believed there was a post-Cold War promise, once the Iron Curtain came down, to not interfere in the region.

As one of the leaders in helping the captive nations movement and to this day regretting the way our brothers and sisters in these countries were treated during the postwar conferences at Yalta and Tehran—I must say I never thought the wall would come down or their curtain torn, but once it did, I did everything I could to ensure these newly democratized countries were invited to join NATO. In 1998, as chairman of the National Governors Association, I worked to get a resolution passed encouraging the United States to invite Poland, the Czech Republic, and Hungary to join the alliance.

One of the proudest moments as a Senator was when I joined President Bush, Secretary of State Powell, Secretary of Defense Rumsfeld, and Chairman of the Joint Chiefs of Staff General Myers at the NATO summit in Prague on November 21, 2002. I was in the room when NATO Secretary General Lord Robinson officially announced the decision to invite Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia into NATO. I mention all of this history for a simple reason. I don't think there is a Member of the Senate more wary of the intentions of Russia toward the former captive nations than I.

So it brings me back to the subject of the treaty now pending before the Senate. I take the Senate's constitutional advice and consent duties very seriously. Since the treaty was signed in April, I have attended numerous meetings and classified briefings on the treaty. I suspect I have spent at least 10 to 12 hours on it. Since I last spoke on this floor about the treaty in November, I have held additional consultations with a number of former Cabinet Secretaries, ambassadors, and experts from the intelligence community, including former Secretaries of State Albright, Powell, and Rice, seeking their views about the treaty's effect on our bilateral relationship with Russia, as well as our relationship with our Eastern and Central European allies. While some of those I met with had concerns about specific technical aspects of the treaty, I continually heard that we should ratify the treaty.

I believe it is noteworthy that five former Republican Secretaries of State, including Kissinger, Shultz, Baker, Eagleburger, and Powell, in a December 2, 2010 Washington Post opinion piece urged the Senate:

> . . . to ratify the New START Treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago.

These former Republican Secretaries of State described some of the outstanding issues with the treaty, but describe convincingly, in my opinion, why ultimately it is in our national interest to ratify the treaty.

Mr. President, I ask unanimous consent that the op-ed piece from the Washington Post be printed in the RECORD.

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

[From the Washington Post, Dec. 2, 2010]

THE REPUBLICAN CASE FOR RATIFYING NEW START

(By Henry A. Kissinger, George P. Shultz, James A. Baker III, Lawrence S. Eagleburger and Colin L. Powell)

Republican presidents have long led the crucial fight to protect the United States against nuclear dangers. That is why Presidents Richard Nixon, Ronald Reagan and George H.W. Bush negotiated the SALT I, START I and START II agreements. It is why President George W. Bush negotiated the Moscow Treaty. All four recognized that reducing the number of nuclear arms in an open, verifiable manner would reduce the risk of nuclear catastrophe and increase the stability of America's relationship with the Soviet Union and, later, the Russian Federation. The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

As a result, we urge the Senate to ratify the New START treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago. It reduces the number of nuclear weapons that each side deploys while enabling the United States to maintain a strong nuclear deterrent and preserving the flexibility to deploy those forces as we see fit. Along with our obligation to protect the homeland, the United States has responsibilities to allies around the world. The commander of our nuclear forces has

testified that the 1,550 warheads allowed under this treaty are sufficient for all our missions—and seven former nuclear commanders agree. The defense secretary, the chairman of the Joint Chiefs of Staff and the head of the Missile Defense Agency—all originally appointed by a Republican president—argue that New START is essential for our national defense.

We do not make a recommendation about the exact timing of a Senate ratification vote. That is a matter for the administration and Senate leaders. The most important thing is to have bipartisan support for the treaty, as previous nuclear arms treaties did.

Although each of us had initial questions about New START, administration officials have provided reasonable answers. We believe there are compelling reasons Republicans should support ratification.

First, the agreement emphasizes verification, providing a valuable window into Russia's nuclear arsenal. Since the original START expired last December, Russia has not been required to provide notifications about changes in its strategic nuclear arsenal, and the United States has been unable to conduct on-site inspections. Each day, America's understanding of Russia's arsenal has been degraded, and resources have been diverted from national security tasks to try to fill the gaps. Our military planners increasingly lack the best possible insight into Russia's activity with its strategic nuclear arsenal, making it more difficult to carry out their nuclear deterrent mission.

Second, New START preserves our ability to deploy effective missile defenses. The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans. Although the treaty prohibits the conversion of existing launchers for intercontinental and submarine-based ballistic missiles, our military leaders say they do not want to do that because it is more expensive and less effective than building new ones for defense purposes.

Finally, the Obama administration has agreed to provide for modernization of the infrastructure essential to maintaining our nuclear arsenal. Funding these efforts has become part of the negotiations in the ratification process. The administration has put forth a 10-year plan to spend $84 billion on the Energy Department's nuclear weapons complex. Much of the credit for getting the administration to add $14 billion to the originally proposed $70 billion for modernization goes to Sen. Jon Kyl, the Arizona Republican who has been vigilant in this effort. Implementing this modernization program in a timely fashion would be important in ensuring that our nuclear arsenal is maintained appropriately over the next decade and beyond.

Although the United States needs a strong and reliable nuclear force, the chief nuclear danger today comes not from Russia but from rogue states such as Iran and North Korea and the potential for nuclear material to fall into the hands of terrorists. Given those pressing dangers, some question why an arms control treaty with Russia matters. It matters because it is in both parties' interest that there be transparency and stability in their strategic nuclear relationship. It also matters because Russia's cooperation will be needed if we are to make progress in rolling back the Iranian and North Korean programs. Russian help will be needed to continue our work to secure ''loose nukes'' in Russia and elsewhere. And Russian assistance is needed to improve the situation in Afghanistan, a breeding ground for international terrorism.

Obviously, the United States does not sign arms control agreements just to make friends. Any treaty must be considered on its merits. But we have here an agreement that is clearly in our national interest, and we should consider the ramifications of not ratifying it.

Whenever New START is brought up for debate, we encourage all senators to focus on national security. There are plenty of opportunities to battle on domestic political issues linked to the future of the American economy. With our country facing the dual threats of unemployment and a growing federal debt bomb, we anticipate significant conflict between Democrats and Republicans. It is, however, in the national interest to ratify New START.

Mr. VOINOVICH. Mr. President, I believe many of these experts remain concerned, as do I, that a failure to ratify the treaty would be exploited by those factions in Russia who wish to revert back to our Cold War posture. Such a failure could easily be used by those factions to play on Russian nationalism, which I fear, from what I have heard from some people, is bordering on paranoia. Since I last spoke about the treaty, a number of our new NATO allies have come out and supported the treaty because they believe the treaty's approval should help advance other issues related to Russia, including the lack of compliance with the Conventional Forces in Europe Treaty, tactical nuclear weapons, and cooperation on missile defense.

For example, during his recent visit to Washington, Polish President Bronislaw Komorowski has stated he supports the treaty's ratification. And at a press conference at the conclusion of the NATO Lisbon Summit, Hungarian Foreign Minister Janos Martonyi stated:

> My country has a very special experience with Russia, and also a special geographic location . . . We advocate ratification of START. It is in the interest of my nation, of Europe and most importantly for the transatlantic alliance.

During this press conference, Lithuania's Foreign Minister pointed out that he saw the treaty as a prologue to additional discussions with Russia about other forms of nuclear arms in the region such as tactical nuclear weapons. About three weeks ago, I received a call from President Zatlers, the President of Latvia, urging me: Mr. Senator, please ratify the START treaty.

Still, as history has taught us, the United States must make clear in regard to our relationship with Russia that it will not be at the expense of our NATO allies. Thus, I was pleased to see President Obama provided the leaders of our Central and European allies public reassurance regarding the U.S. commitment to article V of the North Atlantic Treaty during the recent NATO summit in Lisbon which, by the way, was one of the best NATO summits I think that has been held in the last dozen years. The President reaffirmed this commitment in his December 18, 2010 letter to the majority and minority leaders, and I hope that letter from the President has been circulated among my colleagues. It is very clear on where the President stands.

This NATO Summit meeting in Lisbon last month underscore, we are proceeding with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles.

I know that some of my colleagues are concerned with issues related to the treaty, including the modernization of our nuclear infrastructure, missile defense, and verification, and I will discuss each of these issues to explain why I believe they have been adequately addressed.

First of all, as others have pointed out—and I reiterate—Senator KYL has made a valiant effort to ensure we modernize the U.S. nuclear infrastructure. I have worked with Senator KYL on reviewing the treaty. I believe his hard work has led to nuclear modernization receiving the attention it deserves. It is long overdue. I remember Pete Domenici talking about the fact that we needed to do something about it and, frankly, we ignored Senator Domenici.

In a December 1, 2010, letter to Senators KERRY and LUGAR, the National Lab Directors from Lawrence Livermore, Los Alamos, and Sandia stated:

> We are very pleased by the update to the Section 1251 report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable, and effective stockpile under the Stockpile Stewardship and Management Plan.

I ask unanimous consent to have that letter printed in the RECORD.

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

DECEMBER 1, 2010.

Hon. JOHN KERRY,
Hon. RICHARD LUGAR,
Senate Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KERRY AND RANKING MEMBER LUGAR: This letter is a joint response to the letters received November 30, 2010, by each of us in our current roles as directors of the three Department of Energy/National Nuclear Security Administration (NNSA) laboratories—Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Sandia National Laboratories.

We are very pleased by the update to the Section 1251 Report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable and effective stockpile under the Stockpile Stewardship and Management Plan. In particular, we are pleased because it clearly responds to many of the concerns that we and others have voiced in the past about potential future-year funding shortfalls, and it substantially reduces risks to the overall program. We believe that, if enacted, the added funding outlined in the Section 1251 Report update—for enhanced surveillance, pensions, facility construction, and Readiness in Technical Base and Facilities (RTBF) among other programs—would establish a workable funding level for a balanced program that sustains the science, technology and engineering base. In summary, we believe that the proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deterrent within the limit of 1550 deployed strategic warheads established by the New START Treaty with adequate confidence and acceptable risk.

As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent described by the bipartisan Strategic Posture Commission and the Nuclear Posture Review will require sustained attention and continued refinement as requirements are defined and baselines for these major projects are established. We appreciate the fact that this 1251 update calls out the importance of being flexible and the need to revisit these budgets every year as additional detail becomes available.

We look forward to working with you and the Administration to execute this program to ensure the viability of the U.S. nuclear deterrent.

Sincerely,

DR. GEORGE MILLER,
Lawrence Livermore National Laboratory,
DR. MICHAEL ANASTASIO,
Los Alamos National Laboratory,
DR. PAUL HOMMERT,
Sandia National Laboratories.

Mr. VOINOVICH. Mr. President, a number of experts I have consulted with have pointed out—and I have agreed with—the need for the President to provide public assurances regarding the U.S. commitment to a robust missile defense system. So I was pleased with the President's letter to our leadership reiterating such support. Here I quote directly from the President's letter:

Pursuant to the National Missile Defense Act of 1999, it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate.

With regard to the Russian assertion—and we have heard this—that the treaty's preamble prohibits the buildup in missile defense capabilities, the President has stated in very clear language that the ''United States did not and does not agree with the Russian statement. We believe the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation. . . . we believe the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and the viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.''

Mr. President, as I have discussed, I know many of my colleagues have concerns about the treaty. But after my own research and consultations with current and former Secretaries of State and numerous foreign policy experts, including many conservative experts, as well as yesterday's 3-hour closed session in the Old Senate Chamber, I support this treaty and do not believe the concerns that we have heard from some of our colleagues rise to the level at which the Senate should reject the treaty.

The President signed the treaty in April. It is now December, and we are coming up on 1 full year without any verification regime in place. I believe we should work to get this treaty done because these verification procedures are needed now. I am not the only one who believes this. I recently received a letter from Bulgaria's Ambassador to the United States, Elena Poptodorova. I have known her a long time and worked with her to get Bulgaria into NATO. She wrote:

A failure to swiftly ratify the treaty would mean discontinuation of the verification regime that could result in negative consequences in the nuclear disarmament, especially taking into consideration the significant strategic nuclear advantage of Russia.

In my view, it will also put at risk the future cooperation with Russia and will impede the negotiations on priorities, such as conventional forces and tactical nuclear weapons in Europe. It is of utmost importance that Russia be kept at the negotiating table beyond the scope of the New START Treaty, in particular on issues like Iran, Afghanistan and other global security challenges.

I ask unanimous consent that her letter be printed in the RECORD.

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

EMBASSY OF THE
REPUBLIC OF BULGARIA,
Washington DC, December 6, 2010.

DEAR SENATOR VOINOVICH: I am writing to you on an urgent note regarding the pending ratification of the New START.

Firstly, I would like to reiterate the strong support of the Bulgarian government for the treaty. As you may know, already on the margins of the NATO Summit, the Bulgarian Foreign Minister Nickolay Mladenov, together with his colleagues from Denmark, Latvia, Lithuania, Hungary and Norway, explicitly pointed out that the treaty is in the interest of European and global security. I firmly believe that it is indeed key to the national security interest of each country as well as to the stability of the transatlantic alliance.

Secondly, Bulgaria shares the assessment that the treaty allows the United States to maintain an effective and robust nuclear deterrent and to keep modernizing its nuclear weapons complex. It is crucial that it does not put any constraints on the US missile defense programs and allows for the deployment of effective missile systems.

Furthermore, a failure to swiftly ratify the treaty would mean discontinuation of the verification regime that could result in negative consequences in the nuclear disarmament especially taking into consideration the significant strategic nuclear advantage of Russia. In my view, it will also put at risk the future cooperation with Russia and will impede the negotiations on priorities such as conventional forces and tactical nuclear weapons in Europe. It is of utmost importance that Russia be kept at the negotiating table beyond the scope of the New START, in particular on issues like Iran, Afghanistan and other global security challenges.

I strongly urge you, dear Senator, to consider the arguments above and act in favor of a swift ratification of the New START. The new treaty is yet another step toward guaranteeing our common security and the United States leadership is absolutely essential in this respect.

I trust I will be taken in good faith.

Sincerely,

ELENA POPTODOROVA,
Ambassador.

Mr. VOINOVICH. Mr. President, I also bring to my colleagues' attention a July 14, 2010, letter to Senators LEVIN, KERRY, MCCAIN, and LUGAR, from former commanders of the Strategic Air Command and U.S. Strategic Command. Again, I hope my colleagues will read that letter. They list three reasons for support of the treaty. I quote from their second and third reasons:

The New START Treaty contains verification and transparency measures—such as data exchanges, periodic dated updates, notification, unique identifiers on strategic systems, some access to telemetry and onsite inspections—that will give us important insights into Russian strategic nuclear forces and how they operate those forces.

We will understand Russian strategic nuclear forces much better with the treaty that would be the case without it.

These former military commanders go on to state that the U.S. nuclear armaments—again, I think this is for all of us as American people to realize—''will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.''

I ask unanimous consent that letter sent to the Foreign Relations Committee be printed in the RECORD.

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

July 14, 2010.

Senator CARL LEVIN,
Chairman,
Senate Armed Services Committee.
Senator JOHN F. KERRY,
Chairman,
Senate Foreign Relations Committee.
Senator JOHN MCCAIN,
Ranking Member,
Senate Armed Services Committee.
Senator RICHARD G. LUGAR,
Ranking Member,
Senate Foreign Relations Committee.

GENTLEMEN: As former commanders of Strategic Air Command and U.S. Strategic Command, we collectively spent many years providing oversight, direction and maintenance of U.S. strategic nuclear forces and advising presidents from Ronald Reagan to George W. Bush on strategic nuclear policy. We are writing to express our support for ratification of the New START Treaty. The treaty will enhance American national security in several important ways.

First, while it was not possible at this time to address the important issues of non-strategic weapons and total strategic nuclear stockpiles, the New START Treaty sustains limits on deployed Russian strategic nuclear weapons that will allow the United States to continue to reduce its own deployed strategic nuclear weapons. Given the end of the Cold War, there is little concern today about the probability of a Russian nuclear attack. But continuing the formal strategic arms reduction process will contribute to a more productive and safer relationship with Russia.

Second, the New START Treaty contains verification and transparency measures—such as data exchanges, periodic data updates, notifications, unique identifiers on strategic systems, some access to telemetry and on-site inspections—that will give us important insights into Russian strategic nuclear forces and how they operate those forces. We will understand Russian strategic forces much better with the treaty than

would be the case without it. For example, the treaty permits on-site inspections that will allow us to observe and confirm the number of warheads on individual Russian missiles; we cannot do that with just national technical means of verification. That kind of transparency will contribute to a more stable relationship between our two countries. It will also give us greater predictability about Russian strategic forces, so that we can make better-informed decisions about how we shape and operate our own forces.

Third, although the New START Treaty will require U.S. reductions, we believe that the post-treaty force will represent a survivable, robust and effective deterrent, one fully capable of deterring attack on both the United States and America's allies and partners. The Department of Defense has said that it will, under the treaty, maintain 14 Trident ballistic missile submarines, each equipped to carry 20 Trident D–5 submarine-launched ballistic missiles (SLBMs). As two of the 14 submarines are normally in long-term maintenance without missiles on board, the U.S. Navy will deploy 240 Trident SLBMs. Under the treaty's terms, the United States will also be able to deploy up to 420 Minuteman III intercontinental ballistic missiles (ICBMs) and up to 60 heavy bombers equipped for nuclear armaments. That will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.

We understand that one major concern about the treaty is whether or not it will affect U.S. missile defense plans. The treaty preamble notes the interrelationship between offense and defense; this is a simple and long-accepted reality. The size of one side's missile defenses can affect the strategic offensive forces of the other. But the treaty provides no meaningful constraint on U.S. missile defense plans. The prohibition on placing missile defense interceptors in ICBM or SLBM launchers does not constrain us from planned deployments.

The New START Treaty will contribute to a more stable U.S.-Russian relationship. We strongly endorse its early ratification and entry into force.

Sincerely,

GENERAL LARRY WELCH,
USAF, Ret.
GENERAL JOHN CHAIN,
USAF, Ret.
GENERAL LEE BUTLER,
USAF, Ret.
ADMIRAL HENRY CHILES,
USN, Ret.
GENERAL EUGENE HABIGER,
USAF, Ret.
ADMIRAL JAMES ELLIS,
USN, Ret.
GENERAL BENNIE DAVIS,
USAF, Ret.

Mr. VOINOVICH. Mr. President, I also ask unanimous consent to have printed in the RECORD a September 7, 2010, opinion piece from the Wall Street Journal by former Secretary of State George Shultz, who served under President Reagan. I think all of us who are familiar with George Shultz's record have high respect and regard for him.

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

[From the Wall Street Journal, Sept. 7, 2010]

LEARNING FROM EXPERIENCE ON ARMS CONTROL

(By George P. Shultz)

The New Start treaty provides an instructive example of how, when everyone works at it, an important element of arms control treaties can be improved by building on past treaties and their execution.

I remember well the treaty on Intermediate-Range Nuclear Forces (INF), as I had a hand in negotiating the treaty and in getting implementation started. Our mantra was stated almost endlessly by President Ronald Reagan, to the point that Soviet leader Mikhail Gorbachev would join in: ''Trust but verify.''

Reagan insisted on, and we obtained, on-site inspection of the critical elements in the treaty: the destruction of all missiles and a method of ensuring that new ones were not produced. This critical element in the treaty built on an earlier one. The Stockholm Agreement of 1986 was the first U.S.-Soviet agreement to call for on-site observation of military maneuvers. Although not as intrusive as a close look at nuclear facilities, it was, nevertheless an important conceptual breakthrough. The idea of on-site inspection had been accepted and put in practice.

When the Strategic Arms Reduction Treaty (Start) was negotiated and finally signed in 1991, a different problem presented itself. On-site inspection of missile destruction is one thing; on-site inspection of an active inventory is something else again. You are looking at an ongoing operation. Nevertheless, the challenge was met in part by counting delivery vehicles, clearly building on the successful experience of both sides with the INF treaty.

However, the political relations between the United States and the then Soviet Union had not yet reached the level of cooperation required to count the number of actual warheads directly without concern about compromising secret design information. The result was a process of attribution derived from access to telemetry—that is, the data transmitted from flight tests of missiles. This allowed for a cap on the maximum number of warheads that could be delivered, which was the number attributed in Start.

Periodic on-site inspections of the missile sites were provided for under Start, but the experience of both sides was that this process, conducted in a fragmented way, disrupted normal operations and so was unnecessarily burdensome to both sides.

The Strategic Offensive Reduction Treaty (SORT), negotiated in 2002 under the George W. Bush administration, simply relied on the Start verification regime. In a joint declaration, President Bush and President Vladimir Putin agreed on the desirability of greater transparency, but they left it at that.

Along came the New Start treaty, signed by President Barack Obama and Russian President Dmitry Medvedev on April 8, 2010. People responsible for monitoring the original Start treaty were included in the negotiations, so operating experience was present at the table. The result was a further advance, building on the transparency measures already in place under the Start treaty. On-site inspection now allows the total number of warheads on deployed missiles literally to be counted directly.

Thus, up-close observation is substituted for the telemetry that was essential in the original Start treaty. But some cooperation in sharing telemetry information was included in the New Start treaty. This provides some additional transparency and can serve, over time, as a confidence-building measure. It is well that some telemetry cooperation will occur so that the principle is retained.

The New Start treaty, like others before it, was built on previous experience. And, like earlier treaties, it provides a building block for the future. As lower levels of warheads are negotiated, the importance of accurate verification increases and the precedent and experience derived from New Start will ensure that a literal counting process will be available. The New Start treaty also sets a precedent for the future in its provision for on-site observation of nondeployed nuclear systems—important since limits on nondeployed warheads will be a likely next step.

The problem of interruptions in operations posed by the original Start treaty and identified by the executors of the treaty on both sides is addressed in the New Start treaty in a way that gives more information but is less disruptive. First of all, a running account in the form of regular data exchanges is provided every six months on a wide range of information about their strategic forces, and numerous inspection procedures have been consolidated.

The United States will have the right to select, for purposes of inspection, from all of Russia's treaty-limited deployed and nondeployed delivery vehicles and launchers at the rate of 18 inspections per year over the life of New Start. It is also important that each deployed and nondeployed intercontinental ballistic missile (ICBM) or submarine-launched ballistic missile (SLBM) or heavy bomber will have assigned to it a unique code identifier that will be included in notifications any time the ICBM or SLBM or heavy bomber is moved or changes status. The treaty establishes procedures to allow inspectors to confirm the unique identifier during the inspection process.

The notification of changes in weapon systems—for example, movement in and out of deployed status—will provide more information on the status of Russian strategic forces under this treaty than was available under Start. Information provided in notifications will complement and be checked by on-site inspection as well as by imagery from satellites and other assets which collectively make up each side's national technical means of verification.

Having been involved in the Stockholm Treaty when a breakthrough in on-site inspection was made and when intrusive on-site inspection of key events was a main element of the INF Treaty, I am pleased to see that the building process is continuing, especially since the New Start treaty includes some improved formulations that bode well for the future. Seeing is not quite believing, but it helps. Learning is not limited to what you get from experience, but it helps.

The original Start treaty expired last December. The time has come to start seeing again, with penetrating eyes, and to start learning from the new experience.

Mr. VOINOVICH. In his piece, the Secretary discusses the importance of verification and closes with this thought:

> The original START Treaty expired last December. The time has come to start seeing again, with penetrating eyes, and to start learning from the new experience.

In other words, the provisions in terms of verification are new compared to the old START treaty.

Finally, I ask my colleagues to take note of Secretary Rice's statement that ''the treaty helpfully reinstates onsite verification of Russian nuclear forces, which lapsed with the expiration of the original START treaty last year. Meaningful verification was a significant achievement of Presidents

Reagan and George H.W. Bush, and its reinstatement is crucial.''

I ask unanimous consent that her article in the Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, Dec. 7, 2010]

NEW START: RATIFY, WITH CAVEATS

(By Condoleezza Rice)

When U.S. President Bush and Russian President Putin signed the Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons, as their predecessors had. But the Moscow Treaty was different. It came in the wake of America's 2001 withdrawal from the Anti-Ballistic Missile Treaty of 1972, and for the first time the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world's most dangerous weapons could end up in the hands of the world's most dangerous regimes—or of terrorists who would launch attacks more devastating than 9/11. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and our allies.

It is in this context that we should consider the potential contribution of the New Start treaty to U.S. national security. The treaty is modest, reducing offensive nuclear weapons to 1,550 on each side—more than enough for deterrence. While the treaty puts limits on launchers, U.S. military commanders have testified that we will be able to maintain a triad of bombers, submarine-based delivery vehicles and land-based delivery vehicles. Moreover, the treaty helpfully reinstates on-site verification of Russian nuclear forces, which lapsed with the expiration of the original Start treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H.W. Bush, and its reinstatement is crucial.

Still, there are legitimate concerns about New Start that must and can be addressed in the ratification process and, if the treaty is ratified, in future monitoring of the Obama administration's commitments.

First, smaller forces make the modernization of our nuclear infrastructure even more urgent. Sen. Jon Kyl of Arizona has led a valiant effort in this regard. Thanks to his efforts, roughly $84 billion is being allocated to the Department of Energy's nuclear weapons complex. Ratifying the treaty will help cement these commitments, and Congress should fully fund the president's program. Congress should also support the Defense Department in modernizing our launchers as suggested in the recent defense strategy study coauthored by former Secretary of Defense Bill Perry and former National Security Adviser Stephen Hadley.

Second, the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not re-establishing the Cold War link between offensive forces and missile defenses. New Start's preamble is worrying in this regard, as it recognizes the ''interrelationship'' of the two. Administration officials have testified that there is no link, and that the treaty will not limit U.S. missile defenses. But Congress should ensure that future Defense Department budgets reflect this.

Moscow contends that only current U.S. missile-defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

I have personally witnessed Moscow's tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full-range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

Russia should be reassured by the fact that its nuclear arsenal is far too sophisticated and large to be degraded by our missile defenses. In addition, the welcome agreements on missile-defense cooperation reached in Lisbon recently between NATO and Russia can improve transparency and allow Moscow and Washington to work together in this field. After all, a North Korean or Iranian missile is not a threat only to the United States, but to international stability broadly.

Ratification of the treaty also should not be sold as a way to buy Moscow's cooperation on other issues. The men in the Kremlin know that loose nukes in the hands of terrorists—some who operate in Russia's unstable south—are dangerous. That alone should give our governments a reason to work together beyond New Start and address the threat from tactical nuclear weapons, which are smaller and more dispersed, and therefore harder to monitor and control. Russia knows too that a nuclear Iran in the volatile Middle East or the further development of North Korea's arsenal is not in its interest. Russia lives in those neighborhoods. That helps explain Moscow's toughening stance toward Tehran and its longstanding concern about Pyongyang.

The issue before the Senate is the place of New Start in America's future security. Nuclear weapons will be with us for a long time. After this treaty, our focus must be on stopping dangerous proliferators—not on further reductions in the U.S. and Russian strategic arsenals, which are really no threat to each other or to international stability.

A modern but smaller nuclear arsenal and increasingly sophisticated defenses are the right bases for U.S. nuclear security (and that of our allies) going forward. With the right commitments and understandings, ratification of the New Start treaty can contribute to this goal. If the Senate enters those commitments and understandings into the record of ratification, New Start deserves bipartisan support, whether in the lame-duck session or next year.

Mr. VOINOVICH. Mr. President, in my opinion, the jury has returned its verdict, and the overwhelming evidence is that the Senate should ratify the treaty. Support for the treaty should not be viewed through the lens of being liberal or conservative, Republican or Democrat, but rather what is in the best interest of our national security, the best interest of the United States of America, the best interest of our relationships with those countries who share our values and understand that nuclear proliferation is the greatest international threat to our children and grandchildren.

Mr. President, I urge my colleagues to support this treaty. I am prayerful that we have a good vote for it to demonstrate that we have come together on a bipartisan basis to do something that needs to be done, and something that liberals, conservatives, Republicans and Democrats, can come together on to make a difference for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, very shortly, the Senate will be voting on the continuing resolution that will fund the operations of our Federal Government through March—I think, if I am not mistaken, through March 4. I want to take this time to take a look at what happened recently with our appropriations bill, the so-called omnibus bill, that was defeated by our colleagues on the other side of the aisle.

Again, without getting into who caused what and did what to whom first, which is a game we play a lot around here, the fact remains that none of our appropriations bills were passed this year, even though our subcommittees on appropriations passed out all of our bills. We passed them through the Appropriations Committee and brought them to the Senate for consideration, but they were not taken up on the floor. Again, we can go into all the reasons why yes, why no. But that is water over the dam. The fact is, they weren't; therefore, they weren't passed.

At the end of the year, a week ago, Leader REID wanted to put together all the bills that had been passed out of committee with both Republican and Democratic support. Of the 13 bills—and I could be a little mistaken—only 1 or 2 had any minor changes or votes against them in committee. They were almost all unanimous by Republicans and Democrats.

So to keep the government going, we had this omnibus—in other words, putting all the bills together in one package and passing that. My friends objected to that. Because that was objected to, we now face having a continuing resolution to continue the funding from last year on into fiscal year 2011 until March.

When the Republicans killed this Omnibus appropriations bill last week, certain things happened. For example, they chose to close Head Start classrooms that serve 65,000 low-income children. By killing the omnibus, my friends on the other side of the aisle decided to cut childcare subsidies for 100,000 low-income working families. They rejected the opportunity to provide lifesaving drugs to people living with AIDS, who are on waiting lists for lifesaving medication. They passed on the chance to provide 4½ million more meals to seniors in need.

All of these programs would have received badly needed increases in the appropriations bill, but my friends on the other side of the aisle said no. They insisted on just keeping the present funding until March.

Here is another result of killing the omnibus: Millions of American students who receive Pell grants—low-income students—to go to college no

longer know if they will be able to afford college next year.

We cannot let that happen. The continuing resolution we will vote for in a few minutes includes a provision that would close the so-called Pell grant shortfall and ensure there is no cut to the Pell grants to our poor students.

The Pell Grant Program is the backbone of our Nation's financial aid system. More than 9 million low-income students and middle-income students use these grants toward a postsecondary education or vocational training.

People might say: Why has the Pell grant grown so much over the last few months? When the economy is bad, more people tend to go to college and more people in lower income brackets tend to go to college and try to better themselves. That means the cost of providing Pell grants goes up, even when the maximum Pell grant award a person can receive stays the same.

Right now, the maximum Pell grant award is $5,550 a year. Nearly 90 percent of the students who receive that level come from families whose annual income is less than $40,000 for a family of four. Without Pell, most of them would have no chance of receiving a postsecondary education. This is truly a program for low-income students and families seeking to better themselves.

The omnibus bill that was killed last week would have provided the additional funding to close that shortfall, to keep the maximum grant at $5,550. That was $5.7 billion. Again, that money did not just fall from the sky. Other programs across the Federal Government were cut to offset that spending. We appropriators decided that maintaining Pell was so important that it was worth reducing or eliminating other programs, which we did.

When my friends on the other side killed the omnibus, they put the Pell Grant Program in jeopardy and endangered the future of millions of disadvantaged students. According to the recent estimates from OMB, if we do not close the Pell shortfall before February, the maximum award will drop by $1,840, and the Pell grants of all those students with a family income of less than $40,000 will fall by 33 percent—from $5,550 to $3,710 next school year. An estimated 435,000 students who currently receive Pell grants would get nothing, zero. Their entire grant would be cut off. Why do I say that? Because if the award drops by $1,840, if your Pell grant was $1,800, you get nothing. So 435,000 students will get no Pell grants whatsoever. That is the situation facing students all over the country today.

We are 4 days away from Christmas. More than 9 million students who depend on Pell grants do not know if their financial aid will be drastically cut or if they will get any financial aid at all. Hopefully, in about 10 minutes, we are going to change that because I am hopeful we will all join together today in supporting this continuing resolution because as a part of the continuing resolution, we close that Pell grant shortfall so we can undo or redo what was undone by not taking up the omnibus bill.

We can keep the government running, but we can also make this fix. It is so important to do that now because of certain rules and regulations that go into effect after the first of the year that will drastically impinge on the Pell Grant Program unless we take this action today.

I hope all Republicans and Democrats will join in supporting the continuing resolution and so do more than 9 million American students who depend on Pell grants for their college education.

Again, I point out that other appropriations will not be settled even if we pass the continuing resolution today. Those decisions are kicked down the street until March 4 when the continuing resolution expires.

We are going to face a tough situation on March 4. My friends on the other side of the aisle have said that their plan is to cut nonsecurity-related appropriations, to cut everything except defense, homeland security, military construction, and VA by $100 billion. When you exclude all that and you want to cut $100 billion, that is a 21-percent cut from everything else.

Do Republicans really want to cut 21 percent from childcare subsidies for working families in this economy—a 21-percent cut? Do you really want to cut 21 percent from job training programs in this economy? Do you really want to cut 21 percent from programs that educate disadvantaged children, title I programs, in this economy? Do our friends on the other side of the aisle want to cut 21 percent from the AIDS drug assistance program? Do you want to cut 21 percent from senior meals programs? Do we want to cut 21 percent from the Social Security Administration in this economy?

That is what is coming down the pike on March 4. We kick the ball down the field a little bit, but on March 4, the battle will be joined again.

If my friends on the other side of the aisle try to decimate these programs that are so critical to the well-being of so many families in this country—children, working parents who need childcare, the elderly who rely on a lot of these meals—I had it happen in my own family. Meals on Wheels keeps people from going to the hospital, lets them stay at home and get a decent diet, senior meals programs; job training programs so people can train for new jobs—all part of getting our country back up again. If they are going to cut 21 percent from all this, I want to say there is going to be a battle. We are not going to sit back and let these programs be decimated, these programs that mean so much to so many families.

In the meantime, we have to keep the government running, and that is what the continuing resolution is all about. As I said, what is so important is to make sure the Pell grant shortfall is closed, which it is on this continuing resolution.

I urge all my colleagues to support the continuing resolution and hopefully when March 4 comes, again we can agree on a bipartisan basis not to decimate so many programs that help so many people in our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

NOMINATION OF BENITA Y. PEARSON

Mr. COBURN. Mr. President, I ask unanimous consent to have printed in the RECORD two letters that have been received by the Senate in regard to the nomination of Judge Benita Pearson—one from the National Cattlemen's Beef Association; the other from the Farm Animal Welfare Coalition.

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

NATIONAL CATTLEMEN'S BEEF ASSOCIATION,
Washington, DC, December 21, 2010.

Hon. HARRY REID,
Senate Majority Leader, Capitol Building, Washington, DC.

Hon. MITCH MCCONNELL,
Senate Republican Leader, Capitol Building, Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: The National Cattlemen's Beef Association (NCBA) opposes the nomination of Judge Benita Pearson to the United States District Court for the Northern District of Ohio. After reviewing answers she gave to the Senate Judiciary Committee earlier this year, we believe that Judge Pearson's connections to the Animal Legal Defense Fund (ALDF) would make it hard for her to be an impartial judge in cases regarding actions by animal activists. ALDF is an activist organization involved in numerous federal lawsuits and advocates giving animals the same legal rights as humans.

NCBA expects the Senate to confirm judges who can hear cases and make decisions based on facts and law, rather than judges with strong biases that could lead to legislating from the bench. While we continue to discover more about Judge Pearson's animal activist work, we think her connection to ALDF alone is enough to block her nomination in order for Senators to do more research into her background and character.

NCBA is the nation's oldest and largest national trade association representing U.S. cattle producers with more than 140,000 direct and affiliated members. On behalf of our producers, we urge you to oppose the nomination of Judge Benita Y. Pearson to the United States District Court for the Northern District of Ohio.

Sincerely,

STEVE FOGLESONG,
President.

DECEMBER 20, 2010.

Re Nomination of Benita Y. Pearson to the U.S. District Court for the Northern District of Ohio.

To: The U.S. Senate.

From: The Farm Animal Welfare Coalition: American Farm Bureau Federation, American Feed Industry Association, American Sheep Industry Association, Biotechnology Industry Organization, Farm Credit System, Livestock Marketing Association, National Milk Producers Federation, National Pork Producers Council, National Renderers Association, United Egg Producers.

The Farm Animal Welfare Coalition (FAWC), an ad hoc coalition of America's largest farm/ranch, input and related organizations seeks to ensure all federal policy decisions regarding the welfare of food animals are based upon sound science, producer expertise and the rule of law. We write to express our concerns related to the nomination of Benita Y. Pearson to be a judge on the U.S. District Court for the Northern District of Ohio.

Our concerns stem from Ms. Pearson's membership and participation in the Animal Legal Defense Fund (ALDF), an animal rights organization which uses the courts to impose upon farmers, ranchers, biomedical researchers, animal breeders and other legitimate users of animals its parochial view of animal welfare. ALDF also provides legal support for political organizations dedicated to furthering animal rights in the U.S. ALDF's website is rife with references to ''factory farming,'' and other pejorative descriptions of U.S. farm animal husbandry, as well as touting its current and past lawsuits brought against agriculture interests. Its political positions affecting contemporary American agriculture are well known to us.

ALDF works to secure ''standing'' for animals in the courts, a legal evolution with multiple potential negative consequences for food production and the survivability of farmers and ranchers in the U.S. Consider the following from ALDF's Executive Director Steven Wells:

''One day, hopefully, animals will have more opportunities to be represented in courts so that we can more effectively fight the many injustices they face—perhaps as another kind of recognized 'legal person.' In the meantime we must be resourceful and creative in bringing lawsuits to win justice for animals.''

Ms. Pearson's membership in ALDF demonstrates the willingness of a prospective jurist to go beyond the academic or philosophical contemplation of the legal and political issues of animal rights. Her membership in ALDF translates her personal philosophy into implicit action in support of the goals of the animal rights movement.

We are encouraged by Ms. Pearson's written statement it is never appropriate for judges to ''indulge their own values in determining the meaning of statutes and the U.S. Constitution;'' however, her responses remain exceedingly vague when it comes to animal rights issues.

Given one of the ALDF's long-standing priorities is the legal adoption of its so-called ''animal bill of rights''—which calls for the undefined ''right of farm animals to an environment that satisfies their basic and psychological needs''—it seems disingenuous of Ms. Pearson to say she is unaware of this priority or even the existence of the ''bill of rights'' given she is a self-described member of the ALDF. She also teaches animal law courses at Ohio's Cleveland-Marshall College of Law—including a section on constitutional standing—which, we assume, must touch at some point on the ALDF's 30-year-old political philosophy and history of legal actions.

Ms. Pearson stated she does not use the term ''animal rights'' and is ''not an advocate for animal rights'' but ''an advocate for doing what is in the best interest of animals.'' However, she does not explain on what sources of information she relies when determining what is ''the best interest of animals,'' but simply her belief the law ''is intended to do what is in the best interest of animals and humans.''

While it is not a judge's role to legislate from the bench—and we are gratified Ms. Pearson appears to concur—judicial decisions set precedent and can precipitate legislation and regulations. It is unsettling that in Ms. Pearson's written responses to direct questions posed by Senate Judiciary Committee members Sens. Charles Grassley, Jeff Sessions and Tom Coburn, she simply restates existing law as relates to animal rights, animal standing, etc. Hence, we do not get a clear picture of her views regarding animal rights and legal standing.

We would welcome a meeting with Ms. Pearson to discuss these concerns.

Thank you for consideration of our views. Please feel free to contact any of the organizations listed on this letter or FAWC's coordinator, Steve Kopperud, at 202–776–0071 or skopperud@poldir.com.

Mr. COBURN. Mr. President, I wish to spend a short time addressing the remarks of my friend from Iowa.

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

Mr. COBURN. Mr. President, the situation we find ourself in is that no appropriations bills came to the floor. We did not control that. If that had been under our control, I assure you they would have come to the floor—and they should. No matter who is in charge, they should come. I think he agrees with that. But I will address the greater issue we have in front of us.

Our Nation has a very short time with which to reassess and reprioritize what is important in our fiscal matters. That period of time, I believe, is shorter than many of my colleagues believe. But I have not been wrong in the past 6 years as to where we are coming. I have been saying it for 6 years. We are now there.

The fact is everything is going to have to be looked at—everything—every project, for every Senator, every position, every program—if we are to solve the major problems that are facing this country.

We all want to help everybody we can, but the one thing that has to be borne in mind as we try to help within the framework of our supposed limited powers is there has to be a future for the country. The things that are coming upon us in the very near future will limit our ability to act if we do not act first.

I take to heart my colleague's very real concern for those who are disadvantaged in our country. It is genuine. It is real. We are going to have a choice to help them or we are going to have a choice to make a whole lot more people disadvantaged. What we have to do is try to figure out how compassionately we can do the most we can do and still have a country left. That is the question that is going to come before us.

I have no doubt we will have great discussions over the next few years on what those priorities are. But we cannot wait to make those priorities. We are going to have to squeeze wasteful spending from the Pentagon. We have no choice. We have no choice with which to make the hard choices in front of us. And it does not matter what happened in the past. What is going to matter is what happens in the future and whether we have the courage to meet the test that is getting ready to face this country.

There is a lot of bipartisan work going on right now behind the scenes in the Senate planning for next year to address those issues.

I say to my colleague from Iowa, the way to have the greatest impact on that issue is to join with us to, No. 1, agree with the severity of the problem and the urgency of the problem, and then let's build a framework on how we solve it, knowing nobody is going to get what they want.

TRIBUTES TO RETIRING SENATORS

RUSS FEINGOLD

Mr. President, I wish to take 2 more minutes to pay a compliment to one of my colleagues.

When I came to the Senate, I visited almost every Member of the Senate on the other side of the aisle. I had a wonderful visit with the Senator from Wisconsin. We actually—although we are totally opposite in our philosophical leanings—had a wonderful time visiting together.

Senator FEINGOLD is my idea of a great Senator. I want to tell you why.

I left that meeting, and about a week later, I got a note from him first of all thanking me for taking the initiative to come and meet with him, but also a commitment that he would always be straight with me, that when he gave me his word and handshake, it would always be that way, and that I could count on him standing for what he believed in but knowing he would do the things we needed to do to get things done.

My observation in the last 6 years in this Chamber is I have watched one man of great integrity keep his word and hold to his values through every crisis and every vote. And every time it was taken where we had to come together to do something, this gentleman kept his character. He kept his word. He fulfilled the best aspects of the tradition of the Senate.

Although I often—most of the time—am on the opposite side of issues from Senator RUSS FEINGOLD, I want to tell you, he has my utmost admiration and my hope that more would follow his principled stand and his wonderful comity as he deals with those on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I understand the UC has us voting at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, I support the continuing resolution. One of the many reasons is that the Navy's urgent request for authority for the littoral combat ship, (LCS),—program is included.

The original LCS acquisition plan in 2005 would have had the Navy buying both types of LCS vessels for some time while the Navy evaluated the capabilities of each vessel. At some time in the future, the Navy would have had the option to down select to building one type of vessel. But in any case, the Navy would have been operating some number of each type of LCS vessel in the fleet, which means that the Navy would have been dealing with two shipyards, two supply chains, two training pipelines, etc. Last year, after the bids came in too high, the Navy decided upon a winner-take-all acquisition strategy to procure the fiscal year 2010 vessels under a fixed-price contract, with fixed-price options for two ships per year for the next 4 years. This revised strategy included obtaining the data rights for the winning ship design and competing for a second source for the winning design starting in fiscal year 2012. Again, the Navy made this course correction because the Navy leadership determined that the original acquisition strategy was unaffordable.

Earlier this year, the Navy released the solicitation under that revised strategy and has been in discussion with the two contractor teams and evaluating those proposals since that time. The bids came in, the competition worked, and the prices were lower than the Navy had expected. Both teams have made offers that are much more attractive than had been expected, and both are priced well below the original, noncompetitive offers.

The Navy has now requested that we approve a different LCS acquisition strategy, taking advantage of the low bids and keeping the industrial base strong. The Armed Services Committee held a hearing on the subject of the change in the Navy's acquisition strategy. We heard testimony from the Navy that, after having reviewed the bids from the two contractor teams, they should change their LCS acquisition strategy.

The Navy testified that continuing the winner-take-all down select would save roughly $1.9 billion, compared with what had been budgeted for the LCS program in the Future-Years Defense Program, or FYDP.

The Navy further testified that revising the acquisition strategy to accept the offers from both LCS contractor teams, rather than down selecting to one design and starting a second source building the winning design, would save $2.9 billion, or $1 billion more than the program of record, and would allow the Navy to purchase an additional LCS vessel during the same period of the FYDP—20 ships rather than 19 ships.

The Navy also testified that additional operation and support costs for maintaining two separate designs in the fleet for their service life over 40 to 50 years, using net present value calculations, would be much less than the additional saving that could be achieved through buying both the ships during the FYDP period—approximately $250 million of additional operating and support costs vs. approximately $900 million in savings.

Those are the facts of the case as we heard from the Navy. Let me relay a few quotes from the Navy witnesses at the hearing to amplify on these points.

Secretary of the Navy Raymond E. Mabus, Jr., referring the authority to revise the acquisition strategy, said the following:

> This authority, which I emphasize, requires no additional funding, will enable us to purchase more high-quality ships for less money and get them into service in less time. It will help preserve jobs in our industrial shipbuilding base and will create new employment opportunities in an economic sector that is critical to our Nation's military and economic security.

ADM Gary Roughead, the Chief of Naval Operations, said:

> The dual award also allows us to reduce costs by further locking in a price for 20 ships, enabling us to acquire LCS at a significant savings to American taxpayers and permitting the use of shipbuilding funds for other shipbuilding programs.

From a broad policy perspective, I believe that the Navy approach of a competitive, dual source alternative could help ensure maximum competition throughout the lifecycle of the program, meeting the spirit and intent of the Weapon Systems Acquisition Reform Act of 2009, MSARA. Specifically, it calls for two shipbuilders in continuous competition to build the ships for the life of the program. The Navy plans to build a total of 55 of these ships, so that could take a number of years.

Some have raised concerns because the Navy has been unable to reveal the specific bid information from the two contractors. Unfortunately, the Navy has been prevented from sharing specific bid information because that would violate the competitive source selection process by revealing proprietary information about the two contactors' bids. Because of these constraints, I do not know what is in the bids. But I take comfort from knowing that these bids are for fixed- price contracts and not for cost-type contracts where a contractor has little to lose from underbidding a contract.

As far as the capability of the two vessels, we heard from Admiral Roughead at the hearing that each of the two vessels would meet his requirements for the LCS program. I asked Admiral Roughead: ''Do both of these vessels in their current configuration meet the Navy's requirements?'' Admiral Roughead replied: ''Yes, Senator, they do. Both ships do.''

Some have raised the possibility that development of the mission packages could cause problems in the shipbuilding program and lead to unexpected cost growth, and thereby fail to achieve the extra savings the Navy is projecting. In some other shipbuilding programs that might be a concern, but I believe that the Navy's fundamental architecture of the LCS program divorces changes in the mission package from changes that perturb the ship design and ship construction. In the past, when there were problems with developing the right combat capability on a ship, this almost inevitably caused problems in the construction program. In the case of the LCS, the combat capability largely resides in the mission packages that connect to either LCS vessel through defined interfaces. What that means is that changes inside the mission packages should not translate into changes during the ship construction schedule—i.e., they are interchangeable. And whatever is happening in the mission package development program would apply equally to either the down select strategy or the dual source strategy.

In terms of the proposal's effects on the industrial base and on competition, I believe that there would be a net positive. The Navy would have the opportunity to compete throughout the life of the program, and any erosion in contractor performance could be corrected by competitive pressures. For the industrial base, there would be more stability in the shipbuilding program. Countless Navy witnesses have testified to the Armed Services Committee and the other defense committees that achieving stability in our shipbuilding programs is one of the best things we in the government can do to help the Navy support the shipbuilding industry.

The Navy's proposal to change to a dual source selection strategy would promote that goal of stability, while effectively continuing competition throughout the program, and at the same time reducing acquisition costs and buying an additional ship over the FYDP.

Why don't we just wait until sometime after the new Congress convenes to deliberate this changed acquisition strategy? Senator JACK REED asked the Navy about this very issue at the hearing. He asked, ''What is lost or what do you gain or lose by waiting?'' Assistant Navy Secretary Sean Stackley answered that question as follows: ''Workforce is leaving, hiring freezes are in effect, vendors are stressed in terms of their ability to keep faith with the proposals, the fixed price proposals that they have put in place. They will need to have to then go back with any further delay and reprice their proposals.''

What that means is, if we were to let the bids expire at the end of December, we would lose the full benefits of the competition and our savings will likely be reduced.

Mr. President, I support including the authority for the Navy to make this change in the continuing resolution before us.

Mr. MCCAIN. Mr. President, I rise to oppose the littoral combat ships, LCS,

provision in the continuing resolution, CR. That provision—which, according to the Congressional Budget Office, CBO, and the Congressional Research Service, CRS, could cost taxpayers as much as $2.9 billion more than the current acquisition strategy—simply does not belong in the CR. But once again we are looking at a cloture vote on a piece of ''must-pass'' legislation where the majority leader has filled the amendment tree and no amendments will be allowed.

The LCS program has a long, documented history of cost overruns and production slippages and yet we now find ourselves inserting an authorization provision at the 11th hour to yet again change the acquisition strategy of a program that has been plagued by instability since its inception.

Let's look at its track record over the past 5 years:

1st LCS funded in 2005—LCS 1 Commissioned in Nov 2008 at cost of $637 million;

2nd LCS funded in 2006—LCS 2 Commissioned in Jan 2010 at cost of $704 million;

3rd LCS funded in 2006—Canceled by Navy in April 2007, because of cost, and schedule growth;

4th LCS funded in 2006—Canceled by Navy in Nov 2007, because of cost and schedule growth;

5th LCS funded in 2007—Canceled by Navy in Mar 2007, because of cost and schedule growth;

6th LCS funded in 2007—Canceled by Navy in Mar 2007, because projected costs too high;

7th LCS funded in 2008—Canceled by Navy in Sep 2008, because projected costs too high;

8th LCS funded in 2009—Christened in Dec 2010 is about 80 percent complete; ''New LCS 3'';

9th LCS funded in 2009—Under construction is about 40 percent complete; ''New LCS 4.''

When the Navy first made its proposal to Congress just over 6 weeks ago, it failed to provide Congress with basic information we need to decide whether it should approve the Navy's request—including the actual bid prices, which would tell us how realistic and sustainable they are, and specific information about how capable each of the yards are of delivering the ships as needed, on time and on budget. Why don't we have that information? Because it's sensitive to the on-going competition.

Last week, in testimony before the Senate Armed Services Committee, the General Accountability Office, GAO, the Congressional Research Service, CRS, and the Congressional Budget Office, CBO, raised important questions that Congress should have answers to before it considers approving the proposal.

Those questions included not only ''how much more (or less) would it cost for the Navy to buy LCS ships under its proposal'' but also ''how much would the cost be to operate and maintain two versions of LCS, under the proposal''. They also asked ''how confident can we be that the Navy will be able to stay within budgeted limits and deliver promised capability on schedule—given that all of the deficiencies affecting LCS' lead ships have not been identified and fully resolved'' and ''has the combined capability of the LCS seaframes with their mission modules been sufficiently demonstrated so that increasing the Navy's commitment to seaframes at this time would be appropriate?''

Those questions, and others, that GAO, CRS and CBO raised last week, are salient and should be answered definitively before we approve of the Navy's proposal. Every one of those witnesses conceded that more time would help Congress get those answers. And, considering this provision in connection with a Continuing Resolution, brought up at the 11th hour; during a lame-duck session; outside of the congressional budget-review period; and without specific information or the opportunity for full and open debate by all interested Members, does not give us that time. Buying into this process would be an abrogation of our constitutional oversight responsibility.

From 2005 to date, we have sunk $8 billion into the LCS program. And, what do we have to show for it? Only two boats commissioned and one boat christened—none of which have been shown to be operationally effective or reliable—and a trail of blown cost-caps and schedule slips. I suggest that, having made key decisions on the program hastily and ill-informed, we in Congress are partly to blame for that record. But, with the cost of the program from 2010 to 2015 projected to be about $11 billion, we can start to fix that—by not including this ill-advised provision in the CR.

I ask unanimous consent that my December 10, 2010, letter to the chairman and ranking member of the Appropriations Committee, asking them not to include the LCS provision in any funding measure, a letter from the Project on Government Oversight to Senator LEVIN and me, and the exchange of letters between me and the Chief of Naval Operations, CNO, be printed in today's RECORD.

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

CHIEF OF NAVAL OPERATIONS,
NAVY PENTAGON,
Washington, DC, November 22, 2010.

Hon. JOHN S. MCCAIN,
Ranking Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for affording me the opportunity to discuss the Littoral Combat Ship (LCS) program. This program is vital to the future force structure of the United States Navy, and I am committed to its success. The Navy tackled aggressively and overcame the program's past cost and schedule challenges, ensuring affordability of this new critical warfighting capability.

The Department has taken action on all four of the recommendations of the August 2010 General Accountability Office (GAO) LCS report.

The Navy has been operating both LCS designs and collecting design performance data. There are mechanisms in place to ensure design corrections identified in building and testing the first four ships are incorporated in the operating ships, ships under construction, and ships yet to be awarded.

The Navy will update the Test and Evaluation Master Plan (TEMP) for the LCS, to reflect the Program of Record following the Milestone B (MS B) decision.

The Navy will update test and evaluation and production of LCS seaframes and mission modules following the MS B decision.

The Navy has completed a robust independent cost analysis of the LCS lifecycle using estimating best practices and submitted this estimate to the Office of the Secretary of Defense (OSD) for comparison with the Cost Assessment and Program Evaluation (CAPE) group independent estimate.

These recommendations and the Department's responses apply for either the down-select or the dual block-buy approach and the Department's concurrence and related actions with the recommendations (included in Appendix III of the August GAO report) will not change in either case.

As you know, Navy has taken delivery of the first two ships and the third and fourth ships are under construction. The performance of the USS FREEDOM (LCS 1) and USS INDEPENDENCE (LCS 2) and their crews are extraordinary and affirm the value and urgent need for these ships. For the Fiscal Years (FYs) 2010–2014 ships, Navy has been pursuing the congressionally authorized down-select to a ten ship block-buy. Competition for the down-select has succeeded in achieving very affordable prices for each of the ten ship bids which reflect mature designs, investments made to improve performance, stable production, and continuous labor learning at their respective shipyards.

The result of this competition affords the Navy an opportunity to award a dual block-buy award (for up to 20 ships between FYs 2010–2015) with fixed-price type contracts, which achieves significant savings for the taxpayer, while getting more ships to the Fleet sooner and providing greater operational flexibility. The dual block-buy provides much needed stability to the shipbuilding industrial base; from vendors, to systems providers to the shipyards. This will pay important dividends to the Department, and to potential Foreign Military Sales customers, in way of current and future program affordability. The fixed-price type contract limits the government's liability and incentivizes both the government and the shipbuilder to aggressively pursue further efficiencies and tightly suppress any appetite for change. Navy will routinely report on the program's progress and Congress retains control over future ship awards through the annual budget process.

The agility, innovation and willingness to seize opportunities displayed in this LCS competition reflect exactly the improvements to the way we do business that the Department requires in order to deliver better value to the taxpayer and greater capability to the warfighter.

I greatly appreciate your support for the LCS Program. As always, if I can be of further assistance, please let me know.

Sincerely,

G. ROUGHEAD,
Admiral, U.S. Navy.

PROJECT ON GOVERNMENT OVERSIGHT,
Washington, DC, December 9, 2010.

Senate Armed Services Committee,
Senate Russell Office Building,
Washington, DC.

DEAR CHAIRMAN LEVIN AND RANKING MEMBER MCCAIN, The Project On Government Oversight (POGO) is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable,

open, and ethical federal government. We are troubled by a rushed proposal to change the Navy Littoral Combat Ship (LCS) sea frame acquisition strategy.

The Navy notified Congress of its proposal to change its acquisition strategy for LCS on November 3, 2010. The proposed strategy, under which the Navy intends to buy up to 20 sea frames from two separate shipyards, is a substantial change from the current strategy. Currently, the Navy's strategy is to ''down select'' (i.e. choose a winner) to one yard and (with the winning design in hand) hold another competition later to build a total of 19 ships—only 10 of which are now authorized under law. To implement the new strategy, the Navy needs Congress to sign off on it and wants Congress to do so by mid-December.

Congress should require that the Navy give it more time to get answers to the serious questions raised by, among others, the Congressional Research Service (CRS) in its November 29, 2010, report (attached) and the Government Accountability Office (GAO) in reports issued in August and December 2010. As CRS asked:

''Does the timing of the Navy's proposal provide Congress with enough time to adequately assess the relative merits of the down select strategy and the dual-award strategy? . . . Should the Navy ask the contractors to extend their bid prices for another, say, 30 or 60 or 90 days beyond December 14, so as to provide more time for congressional review of the Navy's proposal?''

Congress needs time to consider whether the Navy's new plan is fiscally responsible or whether it increases risks that already exist in the program. Congress should require that the Navy to ask the two contractor teams to extend their bid prices up to 90 days beyond December 14. The two contractor teams are led by, respectively, Lockheed Martin and Austal USA.

The Navy's justification for its new strategy is the purportedly low prices that both bidders have submitted in the current competition. But it is not clear if these low bids are reasonable. The use of fixed-price contracts won't necessarily prevent an underperforming shipyard from simply rolling its losses into its prices for follow-on ships.

There can be no doubt that the LCS program has already had significant problems. For example, the sea frames were originally intended to cost about $220 million each. But the ones built and under construction have ballooned up to over $600 million each. Yet without any real data indicating that the program is likely to perform adequately in the future (the Navy has failed to meaningfully implement many of GAO's recommendations in its August report), the Navy wants Congress's help to lock the program into 20 ships over the next five years.

The Navy has not demonstrated the combined capabilities of the LCS sea frame(s) with its mission packages. It's important to bear in mind that the LCS sea frame is effectively a ''truck.'' The LCS's combat effectiveness derives from its modular ''plug-and-play'' mission packages (e.g., anti-submarine, mine-countermeasures, and surface warfare). The LCS program has been struggling with developmental challenges with these mission packages that have led to postponed testing. As the GAO states, ''Until mission packages are proven, the Navy risks investing in a fleet of ships that does not deliver promised capability.'' Without effective mission capabilities, the LCS will be ''largely constrained to self-defense as opposed to mission-related tasks.''

Furthermore, it is likely that other shipyards that may be just as capable of building LCS sea frames as the two that would be awarded contracts under the dual-award strategy. Some, including CRS, have asked whether other shipyards will be frozen out of the LCS program—even after the first 20 ships have been built. For that reason, we believe that, before approving the Navy's proposal, Congress should carefully evaluate whether it may in fact stifle, rather than encourage, competition throughout the program's lifecycle, as is required under the recently enacted weapon systems acquisition reform law.

This is not the first time the Navy has given Congress insufficient time to evaluate its LCS acquisition strategy. The last time the Navy asked Congress to approve its LCS acquisition strategy—just last year—there was short notice. In 2002, the Navy gave ''little or no opportunity for formal congressional review and consideration'' of the Navy's proposed LCS acquisition strategy, according to CRS. This is deja vu all over again. The taxpayers deserve the careful consideration of Congress.

In sum, Congress should not approve the Navy's acquisition strategy without a clear picture of the likely costs and risks. Furthermore, Congress should not allow the Navy to continue to skirt oversight. We appreciate your review of this letter and your time, and look forward to working with you on the Littoral Combat Ship Program. If you have any questions, please do not hesitate to contact Nick Schwellenbach.

Sincerely,

DANIELLE BRIAN,
Executive Director.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 10, 2010.

Hon. DANIEL INOUYE,
Chairman, Senate Committee on Appropriations, Washington, DC.

Hon. THAD COCHRAN,
Vice Chairman, Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN INOUYE AND VICE CHAIRMAN COCHRAN: The House-passed Full-Year Continuing Appropriations Act, 2011 (H.R. 3082) contains a provision that would authorize the Department of the Navy to acquire 20 Littoral Combat Ships (LCS) in lieu of the 10 that were authorized under the National Defense Authorization Act, 2010. As you finalize your Omnibus Appropriations Bill, I wanted to express my opposition to including this provision in the Omnibus Appropriations Bill or any other stop-gap funding measure that you may be considering.

As you know, the Navy first conveyed to the Senate its proposal that gave rise to this provision just a few weeks ago, and the competition for the LCS ship construction contract is still open. As such, not only has the Senate been given an unusually short time to review such an important proposal but it also has been unable to obtain basic information (on cost and capability, for example) it needs to consider the proposal carefully because they remain source-selection sensitive.

Moreover, recent reviews of the proposal released by the General Accountability Office (GAO) and the Congressional Research Service (CRS) just yesterday raise a number of salient concerns about it. In the aggregate, those concerns indicate the proposal needs more careful and open deliberation than would be afforded by including it in a late cycle Omnibus or continuing resolution.

In particular, the GAO identified a full range of uncertainties (relating to, for example, design changes, operations and support costs, mission-package development) that would determine whether the proposal will realize estimated savings—savings that, in its own report release just today, the Congressional Budget Office (CBO) suggests that the Navy may have overstated. GAO also negatively assessed the Navy's implementation of some of the recommendations it made in its August 2010 report—recommendations with which the Department of Defense concurred. Against that backdrop, GAO observed that ''decisionmakers do not have a clear picture of the various options available to them related to choosing between the down-select and dual award strategies''.

Similarly posing a number of important questions (on, for example, the potential relative costs and risks of the two strategies, the proposal's impact on the industrial base, and its effect on competition) in its recent review of the proposal, CRS too noted that this is the third time that the Navy has presented Congress with a difficult choice about how to buy LCS ships late in Congress' budget-review cycle—after budget hearings and often after defense bills have been written.

Given the foregoing, without the basic information and the time necessary for the Senate to discharge its oversight responsibilities with respect to the Navy's proposal responsibly and transparently, I oppose including this provision in the any funding measure now under consideration. With the LCS' program's troubled history, I suggest that such measures would serve as inappropriate vehicles to make dramatic changes to the program.

Thank you for your consideration.

Sincerely,

JOHN MCCAIN,
Ranking Member.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 8, 2010.

Admiral GARY ROUGHEAD, USN,
Chief of Naval Operations,
Navy Pentagon, Washington, DC.

DEAR ADMIRAL ROUGHEAD: About a month ago, the Navy first proposed that Congress let it fundamentally change how it buys seaframes under the Littoral Combat Ships (LCS) program—a program that has had serious difficulty on cost, schedule and performance.

However, in August 2010 and again just today, the General Accountability Office (GAO) issued a report raising serious concerns about the program. In today's report, it also conveyed criticism about the Navy's implementation of its recommendations.

When you and I met, on November 18, 2010. I asked that you describe how the Navy has implemented GAO's recommendations. In that regard, your letter of November 22, 2010, was unhelpful. Not only did it cite what the Navy will do to implement GAO's recommendations as examples of action it had already taken, most of the action items it described didn't even correspond to GAO's actual recommendations. Indeed, the whole thrust of the Navy's proposal appears basically inconsistent with the recommendation that the Navy not buy excess quantities of ships and mission packages before their combined capabilities have been sufficiently demonstrated.

Until deficiencies affecting the lead ships have been fully identified and resolved, I simply cannot share your optimism that the LCS program will stay within budgeted limits and deliver required capability on time—an assumption that underpins the Navy's proposal. And, without basic information needed to consider the proposal responsibly (because, with the competition still open, they remain sensitive), I cannot support it at this time.

Finally, I would like to comment on how undesirable the process by which the Navy has made this proposal has been—outside of ''regular order''; during an open competition; in a way that precludes full and open debate

by all interested Members; and without full information. I respectfully suggest that neither this program nor the Navy's shipbuilding enterprise have been served well by Congress' making decisions in this way in the past. I, therefore, respectfully ask that this process not be repeated.

Thank you for your visit. I look forward to continuing to work with you in support of our sailors.

Sincerely,

JOHN MCCAIN,
Ranking Member.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 10, 2010.

Hon. JOHN MCCAIN,
Ranking Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR: As you know, the Navy is planning to acquire a fleet of 55 littoral combat ships (LCSs), which are designed to counter submarines, mines, and small surface craft in the world's coastal regions. Two of those ships have already been built, one each of two types: a semiplaning steel monohull built jointly by Lockheed Martin and Marinette Marine in Wisconsin and an all-aluminum trimaran built by Austal in Alabama. The Navy also has two more ships (one of each type) under construction. The remaining 51 ships would be purchased from 2010 through 2031. In response to your request, the Congressional Budget Office (CBO) analyzed the cost implications of the Navy's existing plan for acquiring new LCSs and a new plan that it is currently proposing:

Existing ''Down-Select'' Plan: In September 2009, the Navy asked the two builders to submit fixed-price-plus-incentive bids to build 10 ships, 2 per year from 2010 to 2014, beginning with funds appropriated for 2010. The Navy planned to select one of the two versions of the LCS, awarding a contract for those 10 ships to the winning bidder, and then, through another competition, to introduce a second yard to build 5 more ships of that same design from 2012 to 2014. In 2015, the Navy would purchase 4 more ships; the acquisition strategy for those vessels has not been specified. A total of 19 ships of one design would be purchased by 2015 (see Table 1). Any shipyard could bid in that second competition except the winner of the contract for the first 10 ships.

TABLE 1—LCS PROCUREMENT UNDER DIFFERENT ACQUISITION PLANS, 2010 TO 2015

[Number of ships procured]

	2010	2011	2012	2013	2014	2015	Total
Existing Down-Select Plan							
Winner	2	2	2	2	2	4	19
Second Builder	.....	.....	1	2	2	.....	.....
Proposed Dual-Award Plan							
Lockheed Martin/Marinette Marine	1	1	2	2	2	2	20
Austal	1	1	2	2	2	2	.....

Source: Congressional Budget Office based on data from the Navy.
Note: The Navy also purchased two ships from each builder between 2005 and 2009. Under the down-select plan, the Navy proposes to procure four ships in 2015. How the Navy would purchase those ships has not been determined.

Proposed ''Dual-Award'' Plan: In November of this year, the Navy proposed to accept the fixed-price-plus-incentive bids from both teams, purchasing 10 of each type of LCS (a total of 20 ships) by 2015, beginning with funds appropriated for fiscal year 2010.

According to the Navy, the bid prices received under the existing down-select plan were lower than expected, which would allow the service, under the dual-award plan, to purchase 20 ships from 2010 through 2015 for less than it had expected to pay for 19. (The total number of LCSs ultimately purchased would be the same under both plans.)

CBO has estimated the cost for the LCS program between 2010 and 2015 under both plans, using its standard cost-estimating model. By CBO's estimates, either plan would cost substantially more than the Navy's current estimates—but CBO did not have enough information to incorporate in its estimates the bids from both contractors for the 10-ship contract.

CBO's analysis suggests the following conclusions:

Whether one considers the Navy's estimates or CBO's, under either plan, costs for the first 19 ships are likely to be less than the amounts included in the Navy's 2011 budget proposal and the Future Years Defense Program (FYDP).

CBO's estimates show per-ship construction costs that are about the same for the two plans, but those estimates do not take into account the actual bids that have been received.

Adopting the dual-award plan might yield savings in construction costs, both from avoiding the need for a new contractor to develop the infrastructure and expertise to build a new kind of ship and from the possibility that bids now are lower than they would be in a subsequent competition, when the economic environment would probably be different.

Operating and maintaining two types of ships would probably be more expensive, however. The Navy has stated that the differences in costs are small (and more than offset by procurement savings), but there is considerable uncertainty about how to estimate those differences because the Navy does not yet have much experience in operating such ships. In addition, if the Navy later decided to use a common combat system for all LCSs (rather than the different ones that would initially be installed on the two different types of vessels), the costs for developing, procuring, and installing that system could be significant.

THE NAVY'S ESTIMATES OF COSTS BETWEEN 2010 AND 2015

In the fiscal year 2011 FYDP, the Navy proposed spending almost $12 billion in current dollars to procure 19 littoral combat ships between 2010 and 2015 under the down-select plan. (The Navy's budget estimate was submitted in February 2010, well before it received the two contractors' bids in the summer of 2010.) The Navy now estimates the cost under that plan to be $10.4 billion, about $1.5 billion (or 13 percent) less than its previous estimate.

Now that the Navy has the two bids in hand, it has formulated a new plan for purchasing LCSs. It estimates that it could purchase 20 ships—10 from each contractor—for about $9.8 billion through 2015, or $0.6 billion less than it currently estimates for the down-select plan and $2.1 billion less than the cost it had estimated for 19 ships in its 2011 FYDP. The Navy's projected cost per ship under this plan is 21 percent less than its estimate in the 2011 FYDP.

The Navy's block-buy contracts under either plan would be structured as fixed price plus incentive. Under the terms of the two contractors' bids, the ceiling price is 125 percent of the target cost, and that price represents the maximum liability to the government. The Navy and the contractor would share costs equally over the target price up to the ceiling price. If costs rose to the ceiling price, the result would be a 12.5 percent increase in price to the government compared with the target price at the time the contract was awarded. The Navy has stated that its budget estimates include additional funding above the target price to address some, but not all, of the potential cost increases during contract execution. There is also the potential for cost growth in other parts of the program, such as in the government's purchasing of equipment that it provides to the shipyard, that are not part of the shipyard contract. But the cost of government-furnished equipment is small; it is less than 5 percent of the total cost in the case of the third and fourth ships currently under construction.

The Navy indicates that its estimates reflect the experience the shipyards gained from building two previous ships and the benefits of competition. Under the down-select plan, the second shipyard that would begin building LCSs in 2012 would be inexperienced with whichever ship design was awarded, and the investments required in infrastructure and expertise would make the first ships it produced more expensive than those from a shipyard with an existing contract for LCS construction. Conversely, under the dual-award plan, each shipyard would benefit from its experience with building two of the first four LCSs. CBO cannot quantify the benefits of competition, although they undoubtedly exist. In light of the results of the competition for the 10-ship block, it is possible that the competition the Navy would hold in 2012 for the second source in the down-select plan might also yield costs that are below those the Navy (or CBO) estimates, in which case the current estimate of the costs for that plan would be overstated.

The Navy briefed CBO on some aspects of those estimates but did not provide CBO with the detailed contractor data or with the Navy's detailed analysis of those data. If the contractors' proposals for the 10-ship award are robust and do not change, the Navy's estimates would be plausible although not guaranteed. CBO has no independent data or means to verify the Navy's savings estimate, and costs could grow by several hundred million dollars if the shipbuilders or developers of the combat systems carried by those ships experience cost overruns.

COMPARISON OF CBO'S AND THE NAVY'S ESTIMATES

CBO's estimates of costs are higher and indicate little difference in the per-ship costs of the two plans. They reflect information about the ships currently being built, but they do not incorporate information about the contractors' bids because CBO does not

have access to that information. Thus, CBO's estimates do not incorporate any benefits of competition that may have arisen as a result of the Navy's existing down-select acquisition strategy—benefits the Navy argues would be locked in by the fixed-price-plus-incentive contracts.

CBO estimates that the down-select plan would cost the Navy about $583 million per ship—compared with an estimated cost of $591 million per ship under the dual-award plan (see table 2). Contributing to that difference is the loss of efficiency that would result from having two yards produce one ship per year in 2010 and 2011, rather than having one yard produce two ships per year. Given the uncertainties that surround such estimates, that difference, of less than 2 percent, is not significant.

CBO's estimates of the cost for the down-select and dual-award strategies are higher than the Navy's, by $680 million and $2.0 billion, respectively, because the contractors' prices are apparently much lower than the amounts CBO's cost-estimating model would have predicted and even lower than the Navy predicted in its 2011 budget. (CBO's model is based on well-established cost-estimating relationships, and it incorporates the Navy's experience with the first four LCSs.) For example, the Navy's estimate of the average cost for one ship in each of the two yards in 2010 and 2011 is lower than CBO's estimate of what the average cost would be to build (presumably, more efficiently) two ships in one yard. And those lower costs carry through to the years when each yard would be building two ships per year. In addition, again according to the Navy, the contractors were willing to accept a change in the number of ships purchased per year in 2010 and 2011 without increasing the total cost of the ships. The Navy stated that the contractors achieved a substantial savings in the cost of materials because, under the block buy, the Navy would be committing to purchase 10 ships from one or both shipyards. With the dual-award strategy, the Navy is attempting to capture the lower prices offered by both builders for 20 ships, rather than just for 10 ships under the down-select strategy.

TABLE 2—CBO'S AND THE NAVY'S ESTIMATES OF THE COSTS OF THE LCS PROGRAM UNDER DIFFERENT ACQUISITION PLANS, 2010 TO 2015

[Millions of current dollars]

	2010 [a]	2011	2012	2013	2014	2015	Total	Average ship cost
CBO's Estimates								
19-Ship Down-Select Plan	1,080	1,150 [b]	1,790	2,330	2,350	2,380	11,080	583
20-Ship Dual-Award Plan	1,080	1,450 [b]	2,290	2,300	2,330	2,370	11,820	591
Navy's Estimates								
19-Ship Down-Select Plan	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	10,400	547
20-Ship Dual-Award Plan	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	9,800	490
Memorandum:								
2011 President's Budget and FYDP (19-ship plan)	1,080	1,509	1,808	2,334	2,417	2,748	11,893	626

Source: Congressional Budget Office.
Note: n.a. = not available; FYDP = Future Years Defense Program.
a. The amount for 2010 is the funding level provided in the Defense Appropriations Act, 2010.
b. The amounts for 2011 include additional funds CBO estimates would be needed to complete the 2010 ships.

With the Navy in possession of contract bids, it is not clear that CBO's cost-estimating model is a better predictor of LCS costs through 2015 than the Navy's estimates. Still, the savings compared with the 2011 FYDP might not be realized if the Navy changes the number of ships that are purchased after the contract has been let or makes design changes to address technical problems, regardless of which acquisition strategy the Navy pursues. Inflation or other escalation clauses in the contract also could add to costs.

Although CBO estimates that the dual-award plan would be slightly more costly, that approach might also provide some benefits. In materials delivered to the Congress about that strategy, the Navy stated, ''There are numerous benefits to this approach including stabilizing the LCS program and the industrial base with award of 20 ships; increasing ship procurement rate to support operational requirements; sustaining competition through the program; and enhancing Foreign Military Sales opportunities.'' CBO did not evaluate those potential benefits.

IMPLICATIONS OF THE TWO ACQUISITION PLANS FOR COSTS BEYOND 2015

A Navy decision to buy both types of ships through 2015 would have cost implications after 2015. But whether those long-term costs will be higher or lower would depend on at least three aspects of the Navy's decision:

Which of the two ship designs the Navy would have selected if it had kept to its original down-select plan;

Whether the Navy will buy one or both types of ships after 2015; and

Whether the Navy decides eventually to develop a common combat system for both types of ships or to keep the two combat systems (one for each type of ship) that it would purchase under the dual-award approach.

CBO cannot estimate those costs beyond 2015 because it does not know what the Navy is likely to decide in any of those areas. For example, if the Navy pursued its original down-select strategy and chose the ship with lower total ownership costs (the costs of purchasing and operating the ships), switching to the dual-award strategy would increase the overall cost of the program because the Navy would then be buying at least 10 more ships that have higher total ownership costs. Conversely, if the Navy were to choose the ship with higher total ownership costs under the down-select strategy, the dual-award strategy might produce an overall savings. However, some of those savings would be offset by the extra overhead costs of employing a second shipyard and by other types of additional costs described below. Added costs would also arise if the Navy selected the dual-award strategy through 2015 and then decided to build both types of ships after 2015 to complete the 55–ship fleet rather than selecting only one type, in keeping with its current plans.

The dual-award strategy might entail higher costs to support two full training and maintenance programs for the two ship designs. Under the down-select strategy, the Navy would need training, maintenance, and support facilities to sustain a fleet of 53 LCSs of the winning design. Facilities would be required for both the Pacific Fleet and the Atlantic Fleet—essentially one on each coast of the continental United States. A more modest set of facilities would be required to support the two ships of the losing LCS design, which the Navy could presumably concentrate at a single location. Under a dual-award strategy, the Navy would buy at least 12 ships of each type, with an additional 31 ships of either or both designs purchased after 2015. Thus, a more robust training, maintenance, and support program would be required for the version of the LCS that would have lost under the down-select strategy. The Navy has said that those costs are relatively small and more than offset by the savings generated by the shipyards' bids, but CBO did not have the data to independently estimate those additional costs.

Finally, another, potentially large, cost would hinge on whether the Navy decides in 2016 or later to select a common combat system for all LCSs. Currently, the two versions of the ship use different combat systems. If the Navy decided to have both versions of the LCS operate with the same combat system, it would incur research, development, and procurement costs, as well as costs to install the new system on 12 of the LCSs already equipped with an incompatible system. Combat systems for the LCS today cost about $70 million each, not including the cost to remove the old system and install the new one. At a minimum, the Navy would lose some efficiency in the production of the combat system under the dual-award plan because neither producer of the combat system would have provided more than 12 systems for installation on LCSs by 2015; under the down-select strategy, by contrast, one producer would have provided 19 systems by that year. Thus, the production costs of the combat system are likely to be higher for ships purchased after 2016 under the dual-award strategy than under the existing down-select approach because the manufacturers of those later ships would have had less experience building ships of the same type and thus fewer opportunities to identify cost-saving practices. Furthermore, the costs to operate two combat systems (or to switch to a single combat system later) would probably exceed the cost to operate a single system from the outset.

I hope you find this information helpful. If you have any more questions, please contact me or CBO staff. The CBO staff contact is Eric Labs.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Mr. LEAHY. Mr. President, I strongly support the alternate engine for the F–35 Joint Strike Fighter. The evidence and the logic for an alternate engine easily overwhelm the flawed arguments that have been used to attack it. Investments in fighter engine competition will reduce costs over the life of the F–35 program. Not only will competition cost less than a single engine monopoly; competition also forces contractors to be more responsive and reliable. And the F–35 will comprise a vast percentage of the U.S. strike aircraft fleet. With just one engine, our national security would rest on a single point of failure. Sole-sourcing the F–35 Joint Strike Fighter engine is simply

the wrong decision for our country, and I am glad that the continuing resolution will preserve funding for this program through March.

Though misinformation has been spread about the costs of the alternate engine, multiple nonpartisan reports suggest that it is highly likely to save taxpayer dollars. According to Government Accountability Office testimony, the Congress can reasonably expect to recoup investment costs over the life of the program. If the so-called ''Great Engine War'' of the F–16 program is any example, the F–35 alternate engine might even yield 30 percent cumulative savings for acquisition, 16 percent savings in operations and support, and 21 percent savings over the life cycle of the aircraft. Not only would we sacrifice these potential savings by killing the F–35 alternate engine program, but that decision would waste the investment we have already made in a competitive second engine. Ending fighter engine competition for the F–35 is pound foolish without even being penny wise.

GAO also points to several possible nonfinancial benefits of engine competition, including better system performance, increased reliability and improved contractor responsiveness. News reports about the broader F–35 program reveal what happens when we sole-source crucial large, multiyear defense programs. The F–35 faces a range of unanticipated problems, delays and cost overruns. Even the independent panel on the 2010 Quadrennial Defense Review—led by President Clinton's Defense Secretary, William Perry, and President Bush's National Security Adviser, Stephen Hadley—strongly advocated dual-source competition in major defense programs. Without competition, the American people will keep paying more and more to buy less and less.

Without competition, our country's strike aircraft would be one engine problem away from fleet-wide grounding. Putting all of our eggs in the single engine basket would elevate risks to our troops and their missions. Imagine our soldiers in Afghanistan stranded without air support simply because we were not wise enough to diversify the program to avoid engine-based groundings. With their lives on the line, we cannot afford to be irresponsible with this program.

The continuing resolution appropriately maintains funding for the alternate engine program. It does not allow for so-called new starts, but neither does it bring programs to a premature end without the debate and full consideration here in the Congress that they deserve. The alternate engine program will rightly continue, and I expect that when programs receive scrutiny during budget consideration next spring, the same will also be the case.

Ensuring engine competition is the right thing to do because it is the smart thing to do. Although some have stressed the up-front costs, taxpayers stand to save more money over the life of the F–35 program by maintaining competitive alternatives. Most importantly, we will purchase a better and more reliable product for the people who risk their lives to defend our country. I will continue to support engine competition that ensures the best product for the troops at the best price for the taxpayer.

Ms. MIKULSKI. Mr. President, I rise to speak about the appropriations process and the need to return it to regular order. I come to the floor very bitter that we have to pass this continuing resolution, CR. The power of the purse is our constitutional prerogative. I am for regular order. Regular order is the most important reform to avoid continuing resolutions and omnibus bills.

Regular order starts with the Appropriations subcommittees and then full committee marking up 12 individual bills. Chairman INOUYE has led these bills out of Committee for the last 2 years, as Chairman Byrd did before him. Then the full Senate considers 12 bills on the floor and all Senators have a chance to amend and vote on the bills. This, however, has not happened since the 2006 spending bills. Lack of regular order means trillion dollar omnibuses or continuing resolutions. If a bill costs a trillion dollars, then opponents ask why can't we cut it by 20 percent—what will it matter? But we are dealing with actual money; it is not authorizing, which is advisory. There are real consequences. If we are really going to tackle the debt, the Appropriations Committee must be at the table. Tackling the debt can't be done just through Budget and Finance Committees alone.

What are the real life consequences of this CR? Well, this CR means that it will be harder to keep America safe. Under this CR the FBI cannot hire 126 new agents and 32 intelligence analysts it needs to strengthen national security and counter terrorist threats. The FBI's cyber security efforts will also be stalled, even while our Nation faces a growing and pervasive threat overseas from hackers, cyber spies and cyber terrorists. Cyber security is a critical component to our Nation's infrastructure, but this CR doesn't allow the FBI to hire 63 new agents, 46 new intelligence analysts and 54 new professional staff to fight cyber crime. The DEA, ATF and FBI cannot hire 57 new agents and 64 new prosecutors to reduce the flow of drugs and fight violence and strengthen immigration enforcement along the Southwest border. Under this CR, we leave immigration courts struggling to keep pace with over 400,000 immigration court cases expected in 2011 because they cannot add Immigration Judge Teams who decide deportation and asylum cases. We cannot hire 143 new FBI agents and 157 new prosecutors for U.S. attorneys to target mortgage and financial fraud scammers and schemers who prey on America's hard working, middle class families and destroy our communities and economy. We miss the chance to add at least 75 new U.S. deputy marshals to track down and arrest the roughly 135,000 fugitive, unregistered child sexual predators hiding from the law and targeting children.

This CR stifles innovation and workforce development. In September, Norm Augustine and the National Academy of Sciences updated the 2005 ''Rising Above the Gathering Storm'' report, sounding the alarm that the U.S. is still losing ground in science that fuels innovations, and brings us new products and new companies. Everyone says they are for science, but it appears that no one wants to pay for it. So, under this CR, our science agencies, like the National Institute of Standards and Technology, NIST, and the National Science Foundation, NSF, will be flat funded. For NSF, this would mean 800 fewer research grants, and 7,000 fewer scientists and technicians working in labs across the country on promising research in emerging fields like cyber security and nanotechnology. Under a CR, we will let the world catch up by not making new investments in science education. We won't just lose the Ph.D.s who open avenues of discovery and win the Nobel Prize. We will also lose the technicians who are going from making steel and building ships to the new, innovation-based manufacturing economy, creating the next high tech product. We will also lose the chance to build up technical education in key fields like cyber security. Under this CR, we cannot expand the supply of cyber security specialists who are responsible for protecting U.S. Government computers and information. We miss the opportunity to triple funding for the NSF program to train cyber professionals for Federal careers, which has brought us more than 1,100 cyber warriors since 2002 and of whom more than 90 percent take jobs with Federal agencies.

I am also disappointed we will be passing this CR because I believe in the separation of powers established by the Constitution. Congress should not cede power to the Executive Branch, regardless of which party is in the White House. The Constitution gives the power of the purse to Congress. I will not cede the power to meet compelling human or community needs or create jobs for America and for Maryland. I don't want to leave all funding decisions to bureaucracy.

On the Appropriations Committee, we did our work by reporting 12 separate bills to the full Senate, but none came to the Senate floor. My Commerce, Justice, Science—or CJS—Subcommittee held 6 hearings with 14 witnesses to examine agencies' budget requests and policies. We heard from 4 inspectors general, IGs, from our major departments and agencies: Todd Zinser at Commerce, Glenn Fine at Justice, Paul Martin at NASA and Allison Lerner at NSF. We listened to agencies' officials, representatives of organizations from sheriffs to scientists

and interested Senators. My CJS Subcommittee worked in a bipartisan way to craft a bill that makes America safer, invests in the American workforce of the future and is frugal and gets value for taxpayer dollars. Under this CR, all of that work is wasted. Instead of fulfilling our constitutional duty of the power of the purse, we are leaving it to the Executive Branch to make key funding decisions with minimal direction from Congress.

As I travel around Maryland, people tell me that they are mad at Washington. Families are stretched and stressed. They want a government that's on their side, working for a strong economy and a safer country. They want a government that is as frugal and thrifty as they are. They want to return to a more constitutionally based government. This CR is not the solution.

Some Members might say that a CR is OK, it will save money, it doesn't matter. Well, even though the CR provides less funding for CJS, it doesn't do it smarter because the CR is essentially a blank check for the executive branch. Regular order provides direction, telling the government to be smarter and more frugal, making thoughtful and targeted cuts and modest increases where justified—not government on autopilot.

For example, my CJS appropriations bill tells agencies to cut reception and representation funds by 25 percent; eliminate excessive banquets and conferences; cut overhead by at least 10 percent—by reducing non-essential travel, supply, rent and utility costs; increase funding to IGs, the taxpayers' watchdogs at the agencies, and have those IGs do random audits of grant funding to find and stop waste and fraud; and notify the committee when project costs grow by more than 10 percent so that we have an early warning system on cost overruns. These reforms are lost in any CR.

We should refocus on the Appropriations Committee. Many Senators have only been elected for the first time in the last 6 years, so most have never seen regular order and don't know what Appropriations Committee is supposed to be. The Appropriations Committee is ''the guardian of the purse,'' which puts real funds in the Federal checkbook for the day-to-day operations of Federal agencies in Washington, and around the Nation and the world. It performs oversight of spending by Federal agencies. And it serves as Congress's main tool to influence how agencies spend money on a daily basis. Why does this matter? It matters because the Appropriations Committee is the tool for aggressive oversight and meeting the needs of our constituents. Agencies must respond to Appropriations—their budgets depend on it.

We must preserve the separation of powers, oversight of Federal agencies and advocacy for our States and our constituents. I urge my colleagues to return to the regular order, and look forward to consideration of all 12 appropriations bills on the floor next year.

Mr. LAUTENBERG. Mr. President, when our colleagues from across the aisle blocked the Omnibus appropriations bill they decided to leave our Nation less safe and less prepared to thwart the next terrorist attack. They chose to put our homeland security on autopilot for the next few months—and that is just too risky.

We had before us an Omnibus bill that addressed the evolving threats to our homeland security. As chairman of the Homeland Security Appropriations Subcommittee, I can attest to the diligent, bipartisan work that went into crafting this legislation, which met our security challenges in a fiscally responsible manner. But our colleagues across the aisle chose instead to fund our homeland security at the status quo levels under a continuing resolution. The terrorists aren't operating under the status quo and neither should we.

The terrorists are constantly searching for new ways to threaten our way of life. We are approaching the 1-year anniversary of the Christmas Day bombing attempt, when a terrorist boarded a flight to Detroit with explosives sewn into his underwear. And just in October, printer cartridges being shipped from Yemen were found to contain explosives that were meant to blow up on cargo planes flying over the east coast of the U.S.

Homegrown terrorism is also a growing threat, as evidenced by the Fort Hood shooting, the Times Square bombing attempt and the New York City subway plot. Earlier this month, the FBI arrested a suspect who was planning to blow up a military recruitment center in Baltimore. And last month, the FBI stopped a U.S. citizen who planned a terrorist bombing at a Christmas tree-lighting ceremony in Portland, OR.

Because of the opposition to the Omnibus, our Department of Homeland Security and first responders across the country will not have the resources they need to anticipate, thwart, and respond to these threats: The Transportation Security Administration will not be able to purchase new explosive-tracing equipment or hire more intelligence officers and canine teams. We won't be able to hire more Federal air marshals, who have been stretched thin since the Christmas Day bomb plot was foiled. Our airports and seaports won't get new equipment to detect radiation and nuclear material. We will have fewer resources to secure air cargo and eliminate threats like the package bombs from Yemen. We will have less funding to secure our rail and transit systems, which are prime targets for terrorists—as we've seen everywhere from Madrid and Russia to DC and New York City. The Coast Guard won't be able to hire 100 new maritime inspectors or improve their capacity to respond to an oil spill. Immigration and Customs Enforcement may have to cut back investigations into human trafficking, drug smuggling and identity theft. There will be fewer Customs officers on duty to keep dangerous cargo and terrorists out of our country. Our ability to prepare for natural disasters and other emergencies will suffer. Fewer local fire departments will receive needed assistance to pay for equipment and training.

In short, the Republicans' decision to kill the Omnibus will shortchange our safety and take chances with our security—and that is wrong for our country.

Beyond homeland security, the Republicans' actions will leave our troops worse prepared and our children without the education they deserve.

The Omnibus crafted by Senator INOUYE, on the other hand, responsibly met all of these needs. And it did so at the exact same funding level proposed by the Republican leader in the Appropriations Committee earlier this year. In June, 40 Republicans voted to support funding the government at this level. Moreover, the Omnibus was crafted on a bipartisan basis—and included earmarks and other spending requested by Republicans.

So it is the height of hypocrisy and cynicism for our Republican colleagues to attack this bill as wasteful or bloated. Adding to the hypocrisy, just two days after killing the Omnibus, which included a quarter billion dollars more for border security than the CR, Republicans killed the DREAM Act—on the alleged basis that we should secure the border first. They are clearly more concerned with handing a defeat to our President and to congressional Democrats than with governing in a responsible way. Republicans have put politics first and it is our troops, our security and our children that will pay the price.

In the aftermath of the wreckage caused by the Republicans' opposition to the Omnibus, Senator INOUYE was faced with the challenge of drafting a slimmed-down continuing resolution that would not leave the country vulnerable. This was an extremely difficult task, but Senator INOUYE was able to craft a bill that provides the most vital resources our government needs to function over the next few months. This was no small feat and I commend the chairman for his tireless work on this bill and throughout this year's appropriations process.

The PRESIDING OFFICER. The Senator from Colorado.

NOMINATION OF BILL MARTINEZ

Mr. UDALL of Colorado. Mr. President, I rise in response to Senator SESSIONS' comments about a nominee we are going to consider shortly, Bill Martinez.

Senator SESSIONS just spoke about the ACLU for 30 minutes, trying to define Bill Martinez—a district court nominee, not the appeals court as SESSIONS noted—as an ACLU-like nominee and then criticizing his hearing responses on the death penalty and the

empathy standard. I wanted to clarify for the record three points of misinformation.

Bill Martinez did not work for the ACLU. He served on an advisory board regarding cases in Denver. Several Bush nominees were members of the Federalist Society and contributors to other conservative litigation centers and were confirmed just a few years ago. Bill Martinez is not the ACLU, and we ought to be careful to avoid setting false standards.

From the Martinez Hearing:

Senator Sessions: Have you ever acted as counsel in a matter on behalf of the ACLU? If so, please provide the Committee with a citation for each case, a description of the matter, and a description of your participation in that matter.

Martinez Response: No.

Senator SESSIONS claimed he was dissatisfied with Bill Martinez's response regarding the death penalty, stating that he was not clear in his beliefs. This is misleading and the record states otherwise.

From the Martinez Hearing:

Senator Sessions: Please answer whether you personally believe that the death penalty violates the Constitution.

Martinez Response: It is clear under current Supreme Court jurisprudence that, with very limited exceptions, the death penalty does not violate the Eighth Amendment to the U.S. Constitution. *Gregg* v. *Georgia*, 428 U.S. 153 (1976); *Roper* v. *Simmons*, 543 U.S. 551 (2005); *Kennedy* v. *Louisiana*, 129 S.Ct. 1 (2008). Consistent with this precedent, I do not believe the death penalty is unconstitutional.

Senator SESSIONS also claimed that Bill Martinez stated empathy can be taken into consideration with legal decisions. This is misleading and the record states otherwise.

From the Martinez Hearing:

Senator Sessions: Do you think that it's ever proper for judges to indulge their own subjective sense of empathy in determining what the law means?

Martinez Response: No.

Let me end on this note. Bill Martinez is a man of high character, he is a good man, and he will make an excellent Federal judge. Let us vote to confirm Bill Martinez to the Colorado U.S. District Court.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). Under the previous order, the second-degree amendment is withdrawn. The question is on agreeing to the motion to concur.

Mr. UDALL of Colorado. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—79

Akaka	Franken	Murkowski
Alexander	Gillibrand	Murray
Barrasso	Grassley	Nelson (FL)
Baucus	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Hutchison	Reid
Bennett	Inouye	Roberts
Bingaman	Johanns	Rockefeller
Boxer	Johnson	Sanders
Brown (MA)	Kerry	Schumer
Brown (OH)	Kirk	Sessions
Bunning	Klobuchar	Shaheen
Cantwell	Kohl	Shelby
Cardin	Kyl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Corker	Lugar	Voinovich
Dodd	Manchin	Warner
Dorgan	McCaskill	Webb
Durbin	McConnell	Whitehouse
Ensign	Menendez	Wicker
Enzi	Merkley	
Feinstein	Mikulski	

NAYS—16

Burr	Feingold	McCain
Chambliss	Graham	Nelson (NE)
Coburn	Hatch	Risch
Cornyn	Inhofe	Vitter
Crapo	Isakson	
DeMint	LeMieux	

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF BENITA Y. PEARSON TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO

NOMINATION OF WILLIAM JOSEPH MARTINEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the following two nominations, which the clerk will report.

The legislative clerk read the nomination of Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio.

The legislative clerk read the nomination of William Joseph Martinez, of Colorado, to be United States District Judge for the District of Colorado.

Who yields time? The Senator from Alabama.

Mr. SESSIONS. Mr. President, is there an agreement as to the time?

The PRESIDING OFFICER. There is 8 minutes total, 4 minutes on each side on both nominations in combination.

Mr. SESSIONS. Mr. President, I would assume the chairman, who will be speaking in favor, would want to go first, and I yield to Senator LEAHY.

Mr. LEAHY. No, go ahead.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the two nominees today are nominees who came out of the Judiciary Committee with substantial negative votes. Mr. Martinez is a long-time member of the American Civil Liberties Union. He has refused, when asked at the hearing, by myself and in written questions, to state whether he believes the Constitution of the United States prohibits the death penalty—not whether he believed in it. That is his prerogative. He hid behind the answer that the Supreme Court says it is. But the ACLU holds to the view that the cruel and unusual punishment provision of the Constitution prohibits the imposition of the death penalty and, therefore, it is unconstitutional.

He refused to answer that question, and I believe that is an untenable view. There are four references, at least, in the Constitution to the death penalty, and I do not know how somebody could take the cruel and unusual clause to override specific references to the death penalty which was provided for in every Colony and the Federal Government when the Constitution passed.

With regard to the other nominee, Mrs. Benita Pearson, she has some very extreme views on animal rights. When asked by Senator COBURN whether it would be in the best interests of a steer to be slaughtered—she was asked that in the committee—she said probably not in the best interests of the steer, sir. But then you have to look beyond that. I mean, the steer is going to lose its life. It is a painful situation. And steers, evidence has shown, may have some idea or apprehension about the slaughter that is impending. But the next step is, is it necessary to slaughter the steer in order to provide food for those who might otherwise go hungry or perhaps be malnourished without the sustenance that this steer's flesh and hide could provide in terms of clothing and matters necessary for the well-being of animals.

Basically, what I understand this to be is that she is suggesting a court should enter into some sort of balancing test on whether it is legitimate to slaughter a steer, and also she is a member of the ALDF, the defense of animals group, that is very extreme in its views.

For that reason, the National Cattleman's Beef Association and the Farm Animal Welfare Coalition strongly oppose the nomination. I think her views on this issue are out of the mainstream.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, President Obama nominated William J. Martinez to fill a judicial emergency vacancy on the District of Colorado last February. Mr. Martinez is a well-respected legal practitioner in Denver who has the strong support of both of his home State Senators. The statements earlier today from Senator UDALL and Senator

BENNET were compelling. They have been steadfast, forthright and exceedingly patient. I wholeheartedly agree with them that Bill Martinez should now, at long last, be confirmed. When he is, he will become only the second Hispanic to serve Colorado as a district court judge.

The Judiciary Committee favorably reported his nomination over 8 months ago, on April 15. It has been delayed ever since. In May we received a letter from the chief judge of the District of Colorado, Judge Wiley Y. Daniel, urging us to confirm Mr. Martinez because without additional judges ''it is impossible for the court to possess the judicial resources that are necessary to effectively discharge the business of the court.'' Despite that plea from the chief judge of the district, the Senate has not been allowed to consider this nomination until today.

This is another example of the unnecessary delays that have led to a judicial vacancies crisis throughout the country. Judicial vacancies have skyrocketed to over 100 while nominations are forced to languish without final Senate action. In fact, President Obama's nominees have been forced to wait on average six times longer to be considered than President Bush's judicial nominees reported by the Judiciary Committee during the first 2 years of his Presidency.

I still do not understand why this nomination was subjected to a party-line vote before the Judiciary Committee. I recall all the Bush nominees who were members of the Federalist Society and other conservative litigation centers who were confirmed just a few years ago. Can it be that some are seeking to apply a conservative activist ideological litmus test and discount Mr. Martinez' qualifications and work experience?

Our ranking Republican Senator, Senator SESSIONS, reflected on the confirmation process last year, saying:

> What I found was that charges come flying in from right and left that are unsupported and false. It's very, very difficult for a nominee to push back. So I think we have a high responsibility to base any criticisms that we have on a fair and honest statement of the facts and that nominees should not be subjected to distortions of their record.

I listened closely to the Senator's statement against Mr. Martinez but heard nothing about anything Mr. Martinez had done or even any position taken by the Colorado ACLU in which Mr. Martinez was involved. There was nothing on which to base opposition to this qualified nominee. Certainly not the ''gotcha'' questions he was asked months ago.

More than two dozen Federal circuit and district court nominations favorably reported by the Judiciary Committee still await a final Senate vote. These include 17 nominations reported unanimously and another 2 reported with strong bipartisan support and only a small number of no votes. These nominations should have been confirmed within days of being reported. In addition, 15 nominations ready for final action are to fill judicial emergency vacancies. With judicial vacancies at historic highs, we should act on these nominations. During President Bush's first 2 years in office, the Senate proceeded to votes on all 100 judicial nominations favorably reported by the Judiciary Committee. That included controversial circuit court nominations reported during the lame-duck session after the election in 2002. In contrast, during the first 2 years of President Obama's administration, the Senate has considered just 55 of the 80 judicial nominations reported by the Judiciary Committee.

Adding to the letters we have received recently urging us to take action to fill vacancies is one sent this week to the Senate leaders by the National Association of Assistant United States Attorneys, a group of career prosecutors. John E. Nordin, vice president for membership and operations, writes:

> Judicial vacancies in our federal courts are reaching historic highs. Our members—career federal prosecutors who appear daily in federal courts across the nation—are concerned by the increasing number of vacancies on the federal bench. These vacancies increasingly are contributing to greater caseloads and workload burdens upon the remaining federal judges. Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.

I ask unanimous consent that this letter be printed in the RECORD. It concludes, ''[w]e believe that all judicial nominees approved by the Senate Judiciary Committee are deserving of a prompt up-or-down floor vote.'' I agree with these career Federal prosecutors who understand the vital importance of functioning courts and rely on them every day. It is time for the Senate to act on the dozens of judicial nominees that have been stalled from final consideration before we adjourn.

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

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS,
Lake Ridge, VA, December 17, 2010.

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

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, The Capitol, Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: Judicial vacancies in our federal courts are reaching historic highs. Our members—career federal prosecutors who daily appear in federal courts across the nation—are concerned by the increasing numbers of vacancies on the federal bench. These vacancies increasingly are contributing to greater caseloads and workload burdens upon the remaining federal judges. Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.

As you know, thirty-eight judicial candidates have been approved by the Senate Judiciary Committee and await a Senate floor vote. A large number of these candidates have been approved without controversy by unanimous consent. Some candidates have been named to judgeships whose vacancies have been designated as ''judicial emergencies'' by the Judicial Conference, because of their high caseloads and the significant periods of time that these judgeships have remained unfilled.

We believe that all judicial nominees approved by the Senate Judiciary Committee are deserving of a prompt up-or-down floor vote. Thank you for taking the time to consider our views on this issue and for your leadership.

Sincerely,

JOHN E. NORDIN, II,
Vice President for Membership, and Operations.

Mr. LEAHY. Mr. President, today, the Senate is finally considering a judicial nomination that has been stalled since February on the Executive Calendar. The nomination of Benita Y. Pearson to serve on the Northern District of Ohio was reported favorably by the Judiciary Committee more than 10 months ago. Judge Pearson is currently a Federal magistrate judge on the court to which she is nominated. When confirmed, she will become the first African-American woman to serve as a Federal judge in Ohio.

I have reviewed the record and considered the character, background and qualifications of the nominee and join with the Senators from Ohio, one a Democrat and the other a Republican, in supporting this nominee. Frankly, the opposition is a dramatic departure from the traditional practice of considering district court nominations with deference to the home State Senators that know the nominees and their districts best. I commend Senator BROWN on his statement in support of the nomination today. As he noted, he worked closely with Senator VOINOVICH, the Republican Senator from his State and a judicial screening commission in making this recommendation to the President.

The obstruction of these district court nominations is unprecedented, a sign that a different standard is being applied to President Obama's nominees that has never before been applied to the nominees of any President, Democratic or Republican. Out of the 2,100 district court nominees reported by the Judiciary Committee since 1945, only five have been reported by party-line votes. Four of these party-line votes have been in this Congress, including the two of the nominations we consider today. In fact only 19 of those 2,100 nominees were reported by any type of split rollcall vote at all, but five of them—more than 25 percent of the total—have been this Congress.

The party-line vote against this nomination in the Judiciary Committee was without explanation. Judge Pearson has been a Federal judge magistrate for 8 years and a prosecutor before that. Nothing in her professional background justifies the delay or opposition to this nomination.

At her hearing, there were some who tried to make a mountain out of a mole hill with respect to a statement she made about animals. I just worked

with Senator KYL and Senator MERKLEY on a constitutional, legal prohibition against vicious videos that show animals being crushed. That bill passed unanimously. No Senators thought twice about approving that important legislation. I remember a couple of years ago when a famous professional football player went to prison for his participation in a dog fighting ring. Many Americans were outraged by those activities and no Senator questioned the State and Federal laws against such activities. Are those who oppose this nomination also now opposed to the Humane Society of the United States and to the legislative actions we took since they involved animals?

I join the Senators from Ohio in urging the Senate to confirm Judge Pearson without further delay.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, there has been concern, as the chairman pointed out and the ranking member pointed out, on Benita Pearson's views on animal law. With all due respect to my colleague, you know it is a red herring. If you look at the record of Ohio's Northern District, which goes back to 1839, there has been exactly one case on animal welfare. Some 20 years ago, the Cleveland Zoo was sued to stop the transfer of Timmy the gorilla to the Bronx Zoo—I am not making this up—from transferring Timmy the Gorilla to the Bronx Zoo for mating purposes. The case was dismissed. One case in 170 years.

Judge Pearson is qualified, say the two former presiding judges, Chief Judges Carr and White, and the sitting presiding judge, Judge Oliver from the Northern District—a combined 50 years' experience on the district court.

Judge James Carr, the Chief U.S. District Judge at the time of her nomination, lauded Judge Pearson as ''a splendid choice . . . eminently well-qualified by intelligence, experience . . . and judicial temperament.'' His successor, Chief Judge Solomon Oliver, is just as supportive of her nomination.

So is former Chief Judge George White, who wrote that:

> Magistrate Judge Pearson's record as a Judicial Officer and her litigation and business experience do more than idly suggest her readiness to assume the position of District Court Judge. Taken all together, you will be hard-pressed to find a more suitable candidate.

Mr. BROWN of Ohio. These judges have made glowing reports on Judge Benita Pearson, who has been a magistrate, a CPA, practiced privately, worked for the U.S. Attorney's Office. She will be the first African-American woman to sit on the Federal bench in Ohio. She has been supported by Senator VOINOVICH and a bipartisan commission of 17 lawyers who picked her. She is a great choice. I ask the concurrence of my colleagues. I yield to Senator UDALL.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. I rise to support the nomination of Bill Martinez. Senator LEAHY made the case for his nomination and for him to be confirmed. I have great affection for my friend from Alabama, but I want to set the record clear that Bill Martinez did not work for the ACLU, he advised the ACLU. If we are going to raise that standard and change the rules, then we ought to remember that the Bush nominations often included Federalist Society members and contributors.

We ought to be careful about setting false standards. Bill Martinez was recommended by a bipartisan nominating commission that Senator BENNET and I created. He is a good man. His story is a quintessential American story. He will be an excellent judge. I urge us all to vote for his confirmation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator has 1 minute 5 seconds.

Mr. SESSIONS. Mr. President, Mr. Martinez, I know, has a lot of good supporters and friends, as I have noted. But he did refuse to answer a simple question of whether the U.S. Constitution prohibits the death penalty, which I believe the ACLU, of which he was a member and a member of the legal panel, definitely favored.

I do believe Judge Pearson's view that somehow there should be a balancing test about whether we should actually slaughter a steer based on the need for food or hide is an extreme view also.

We have had about 15 members of the ACLU confirmed by this administration. But we expect this President to submit mainstream judges. The ACLU is not mainstream in its positions. I do believe the administration needs to understand that this is going to be a more contentious matter if we keep seeing the ACLU chromosome as part of this process.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like nothing better than to vote on the judges. We have a number of them who came out unanimously from the Senate Judiciary Committee. My friends from the other side are not even allowing votes on them.

We did not do that to President Bush in his first 2 years.

The PRESIDING OFFICER. The Senator's time has expired.

The question is, Will the Senate advise and consent to the nomination of Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio?

Mr. SESSIONS. 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 for Indiana (Mr. BAYH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 290 Ex.]

YEAS—56

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Dodd	Lincoln	Udall (NM)
Dorgan	Manchin	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	

NAYS—39

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Bunning	Grassley	Nelson (NE)
Burr	Hatch	Risch
Chambliss	Hutchison	Roberts
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Collins	Johanns	Snowe
Corker	Kirk	Thune
Cornyn	Kyl	Vitter
Crapo	LeMieux	Wicker

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William Joseph Martinez, of Colorado, to be U.S. District Judge for the District of Colorado?

Mr. VOINOVICH. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 291 Ex.]

YEAS—58

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (MA)	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Dodd	Manchin	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	
Feinstein	Mikulski	

NAYS—37

Alexander	Enzi	McConnell
Barrasso	Graham	Murkowski
Bennett	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Corker	Kirk	Vitter
Cornyn	Kyl	Voinovich
Crapo	LeMieux	Wicker
DeMint	Lugar	
Ensign	McCain	

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

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

The PRESIDING OFFICER. The clerk will report the treaty.

The assistant legislative clerk read as follows:

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

Pending:

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

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided and controlled between the two leaders or their designees.

Who yields time?

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I believe the Senator from Arizona is prepared to yield back time, and I will also yield back time.

CLOTURE MOTION

The PRESIDING OFFICER. Having all time yielded back, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant 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 Treaties Calendar No. 7, Treaty Document No. 111–5, the START treaty.

Harry Reid, Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Sheldon Whitehouse, Mark L. Pryor, Jack Reed, Robert Menendez, Mark Begich, Benjamin L. Cardin, Kent Conrad, Bill Nelson, Amy Klobuchar, Patty Murray, Barbara A. Mikulski, Christopher J. Dodd, Richard G. Lugar.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Treaty Document No. 111–5, the New START treaty, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER (Mrs. GILLIBRAND). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 67, nays 28, as follows:

[Rollcall Vote No. 292 Ex.]

YEAS—67

Akaka	Feinstein	Murkowski
Alexander	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Isakson	Reid
Boxer	Johnson	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Cochran	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Coons	Lugar	Voinovich
Corker	Manchin	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	
Feingold	Mikulski	

NAYS—28

Barrasso	Graham	McConnell
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker
Ensign	LeMieux	
Enzi	McCain	

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The PRESIDING OFFICER. On this vote, the yeas are 67, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Who yields time?

The Senator from Idaho.

PREDATOR WOLVES

Mr. CRAPO. Madam President, I wish to rise to speak about an issue that has been at the center of debate in the northern Rockies for quite some time; that is, the issue of the wolf. The wolf was introduced into the northern Rockies in the 1990s and has flourished. Wolves are now abundant in the region, but, unfortunately, we have not been able to return the management of the wolves to the State, mostly due to litigation and to the inflexibility of the Endangered Species Act. In the meantime, wolf populations are growing at a rate of about 20 percent a year, resulting in substantial harm to our big game herds and domestic livestock.

Whenever I am back in Idaho, I hear from hunters who are angry their favorite hunting spots are no longer rich with elk and deer or from sheep and cattle ranchers who have lost many a head of cattle or sheep due to the wolf predation.

The State of Idaho has done everything it has been asked to do in order to manage wolves, and we continue to be denied that much needed opportunity. As such, it is time for Congress to act.

I intend to make a unanimous consent request in a few moments. First, I yield a few moments to my colleague from Idaho, Senator RISCH.

Mr. RISCH. Madam President, I join my colleague from Idaho in underscoring the difficulty we have on this issue. Most people on this floor don't have a full appreciation of what those of us in the West have to deal with. Two out of every three acres in Idaho are owned by the Federal Government. The Federal Government came in, in the mid-1990s, and forced the wolf upon the State. The Governor didn't want it, the legislature didn't want it, and the congressional delegation didn't want it. Nonetheless, the Federal Government brought us 34 wolves. Now they have turned into well over 1,000, and nobody knows exactly how many breeding pairs there are. The result is that there has been tremendous havoc wreaked on our preferred species in Idaho, the elk. We have done an outstanding job of managing elk, the preferred species, but they are also the preferred species for the wolf to eat. They are not vegetarians.

As a result, we have had a tremendous problem with wolves in Idaho, and we have brought a bill to the Senate to turn the management of wolves over to the State. All the other animals are managed by the State. We have done a great job for well over 100 years of managing two other difficult predators, the bear and various cats. We have done it responsibly, on a sustained basis, and we want to do the same thing with wolves.

The Federal Government has to let go of this. We have tried. We have the Federal courts that have stepped in. I don't quite understand how the Federal

court can claim the wolf is still an endangered species, when they can turn 34 wolves into over 1,000 and the population has exploded. Nonetheless, they have. It is time for Congress to act.

I yield back to Senator CRAPO.

Mr. CRAPO. Madam President, I will make this request on behalf of myself, Senator RISCH, and the Senators from Utah, Mr. HATCH and Mr. BENNETT, and the Senators from Wyoming, Mr. ENZI and Mr. BARRASSO.

I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 3919, and that the Senate proceed to its immediate consideration; that the bill be read the third time and passed; that the motions to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD, as if read.

The PRESIDING OFFICER. Is there objection?

Mr. CARDIN. Madam President, reserving the right to object, and I do intend to object, first, let me point out to Senator CRAPO, he and I have worked together on the Water and Wildlife Committee and the Environment and Public Works Committee. I think we have had a fine relationship over the past couple years, and we have worked together on a series of bills that I think will improve water and wildlife in this Nation. This legislation has not had a hearing and has not been approved by the Environment and Public Works Committee. It deals with undermining one of the most important laws in our country, the Endangered Species Act. That is one of our most important environmental laws and has protected iconic species such as the bald eagle. The act has long enjoyed bipartisan support. President Nixon signed the ESA into law on December 28, 1973.

This bill attempts to solve politically what should be done by good science. Despite many disagreements in the more than three decades of the ESA, there has never been a removal of a species by Congress. Also, there have been efforts made to work out a reasonable compromise as it relates to the wolf. It is my understanding that it has been blocked on the Republican side in trying to get that compromise brought forward.

I will make one more suggestion to my friend, Senator CRAPO. As you know, the work product of our subcommittee, along with other bills in the Environment and Public Works Committee, and some lands bills have been combined into one bill, Calendar No. 30, S. 3003. I encourage the Senator to look at that package. If we can get consent to include a compromise on the gray wolf, we would be willing to try to get it done in the remaining hours of this session. I offer that to my friend.

Madam President, in its current form, I do object.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CRAPO. Madam President, I appreciate the comments of my colleague from Maryland and I appreciate working with him on the committee and I intend to continue working with him. This is an issue of utmost importance in those States in this region of the United States. The longer we wait to resolve this issue, the more difficult it will be. Cooperation is the key in order for us to get this resolution accomplished.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Madam President, I say to all my friends, it is imperative we work together to find a compromise. As both Senators from Idaho know, you and other Senators have been working on a compromise. Under that compromise, Idaho could have a wolf hunt, as they should. The State of Montana could have a wolf hunt, as Montana should. Northern Utah could. All wolves in Utah would be off the endangered species list. I and others have suggested that wolves in northern Utah be totally off the endangered species list. This proposal we have been working on—you, myself, and others, including Secretary Salazar and the Assistant Secretary of the Interior, Fish and Wildlife Services, a short time ago, all agreed we should allow wolf hunts in all the States I mentioned. Yet I have to be honest, your side of the aisle has objected to that. You are not coming up with a total abolition, taking the wolf out of the Endangered Species Act. That is a solution that will not pass. We need a compromise.

I end where I began. I strongly urge Senators, next year, to keep working on a compromise. This is not going to work when the House passes a bill that totally takes the wolf off the Endangered Species list, which I know is the game plan. If that happens, we are back into the soup again. Let's find a solution and compromise that achieves the results we all want. It is within our reach. It is right there. Because of this interchange, we will not get it done this year. Our States desperately need a solution. That proposal was the solution. It was a compromise that achieved the results intended. I very much hope we can find a compromise to resolve this.

Mr. CRAPO. Madam President, the compromise the Senator from Montana refers to—and he is correct, we have been intensely working on this issue to find a compromise with the administration and the affected States. The compromise he refers to would have required a change in the management of the wolf in Idaho that was unacceptable to the Governor in Idaho and others, including myself and Senator RISCH. Although there was a proposal made, it is not correct that it was approved by everybody. I believe, though, we are making progress.

I am willing to work with the Senator from Montana and the Senator from Maryland and others to try not only to find further progress at this late date in this session or next year, if necessary, to try to find our way to that solution. I appreciate the willingness of both Senators to work with us in trying to find that compromise that will work.

The PRESIDING OFFICER. The Senator from Texas is recognized.

FCC VOTE ON INTERNET REGULATION

Mrs. HUTCHISON. Madam President, I know the subject we are on now is the New START Treaty. It is a very important subject. I appreciate so much all the debate we have had. I hope we will be able to go forward and allow people to have amendments within this time because it is a huge issue for our country.

I wish to speak on a different subject right now because it is so timely. Today, the Federal Communications Commission voted 3 to 2 to impose new regulations on the Internet. This is an unprecedented power grab by the unelected members of the Federal Communications Commission, spearheaded by its chairman.

The FCC is attempting to push excessive government regulation of the Internet through without congressional authority. These actions threaten the very future of this incredible technology. The FCC pursuit of Net neutrality regulations involves claiming authority under the Communications Act that they do not have. Congress did not provide the FCC authority to regulate how Internet service providers manage their network, not anywhere in the Communications Act nor any other statute administered by the Commission.

Adopting and imposing Net neutrality regulations is, in effect, legislating. It takes away the appropriate role of Congress in determining the proper regulatory framework for the fastest growing sector of our economy. The real-world impact of the FCC's action today is that it will be litigated. It will take 18 months to 2 years to sort through the briefings and the court decisions, and it will probably go to the Supreme Court of the United States. In the meantime, capital investment will slow in core communications networks, and I cannot think of a worse possible time for that, as we attempt to create jobs and fuel a recovery from the most significant recession in years.

Elected representatives should determine if regulation is necessary in this area. Hearings would bring opposing parties to the table, and the process would be open. Instead, an unelected and unaccountable group of regulators are creating new authority to intervene in an area that represents one-sixth of the Nation's economy.

I wish to go through a few of the specific provisions in this FCC order. The first one is an order to require broadband providers, such as Comcast and AT&T, to allow subscribers to send and receive any lawful Internet traffic, to go where they want, say what they want, to use any nonharmful online devices or applications they want to use.

These principles are widely supported. I don't object and neither

would probably anyone. However, these principles are already in use. We don't need a big regulatory intervention to accomplish these principles. It is the rest of the order that is diametrically opposed to this statement of openness and freedom. It installs a government arbiter to force their idea of freedom on the users of the Internet and on the companies that are trying to make the Internet the economic engine of America.

The first provision that deals with this is that networks must be transparent. It says networks must be transparent about how they manage their networks, i.e., decisions about engineering, traffic routing, and quality of service. Transparency requirements usually translate to reporting and consumer disclosure requirements that are heavily prescribed and expensive to comply with, and the possible disclosure of proprietary information could affect competition. The real-world impact of this is higher costs to consumers. The Commission will increase regulatory reporting and consumer disclosure requirements as a result of this provision, and the cost will be passed along to, of course, the consumers in the form of more expensive services.

The second provision is that you may not unreasonably discriminate. The FCC's order states that providers may not unreasonably discriminate against lawful Internet traffic. That sounds fine. But the devil is in the details. The term is vaguely defined in the order, and how the FCC interprets and enforces what is unreasonable will determine how limiting this restriction is. For instance, if a provider notices that a small number of users are sharing huge files that are leading to congestion on the network and determines that slowing down those connections would relieve the congestion for the majority of other users, the FCC would have the right, under this order, to determine that such an action is unreasonable.

The real-world impact is that this would diminish the company's flexibility in managing their own services. The unreasonable discrimination provision could undermine the providers' ability to manage their network and guarantee all the users a high quality of service. Companies that build and maintain the networks that make up the Internet need the flexibility to manage the exploding demand for services on their network.

Regrettably, the FCC's order curtails that by establishing that the FCC would be an approval portal that companies would have to pass through to manage their day-to-day operations. Surely, there is a better way.

The next provision requires that broadband providers must justify new specialized services. Under the FCC orders, providers would now have to come to the FCC in order to offer consumers a new service, something that would be creative and innovative. Instead of offering it to the marketplace and having the competitive advantage from something new, they have to now expose it to all of their competitors by going through a regulatory adjudication at the FCC.

Let me give an example of what could happen.

A hospital might want to work with a provider, such as Verizon, to offer a new telemedicine service for Verizon subscribers that allows patients at home to interact with their doctors via high-definition video and uninterruptible remote medical monitoring.

In order to do this, Verizon might have to prioritize that telemedicine traffic ahead of regular Internet traffic to ensure the appropriate quality of service, particularly if there is a life-threatening situation.

The FCC order allows the Commission to determine on a case-by-case basis whether such prioritization is actually unreasonable discrimination because presumably the hospital that is offering the service would be giving better treatment for that telemedicine traffic than the user's regular traffic.

Going through a whole regulatory process in order to offer that service is a burden we do not need and that will stifle the innovation that has been a hallmark of the Internet, which led to the explosion of opportunities there.

The Commission says it wants innovation to occur, but the language of the order clearly discourages innovation by forcing companies to pass through a government regulatory turnstile to determine whether a particular service, an innovative service, something new that might be a competitive advantage, something new for quality of life, should be allowed. This puts the FCC in the position of picking winners and losers among the new innovative services, and it certainly slows down the opportunity to have new things coming on the market in what is usually a fast-paced economic environment.

In some cases, this may be enough to discourage providers from even entering into the special arrangements necessary to offer such services. It is a cumbersome process and, furthermore, it is unnecessary.

In another provision, the FCC order will treat wireless broadband services more lightly than wireline broadband services, at least for now. The FCC reserves rights in this order, which are taken without congressional authority, in my opinion—and certainly the courts will litigate that and make its decisions—the FCC reserves the right to regulate wireless just as harshly in the future as they are now attempting to regulate wireline. For now, wireless providers will have more leeway to innovate and to manage their networks. But how much investment are they going to make for the long term if they do not know what the FCC might foresee in the future that needs fixing, even if it is not apparently broken.

The real world impact is that wireless is the fastest growing area of communications markets. The threat that the Commission might later apply the wireline prohibitions it has ordered today to this wireless marketplace is a major concern.

I commend the two members of the Commission who dissented in the vote today—Rob McDowell and Meredith Atwell Baker. They each did op-eds, one in the Wall Street Journal and one in the Washington Post. I would say the common theme is that this is a solution where there is no problem. We have an open Internet. We have an Internet that is working. It does not need the heavy hand of government. It does not need a government prism through which to determine if the Internet providers are doing an allowable service. We have a marketplace, and the marketplace is working.

This is a time for Congress to take a stand. These regulations will raise uncertainty about the methods and practices communications companies may use to manage their networks. Heavy-handed regulation threatens investment and innovation in broadband services, placing valuable American jobs at risk.

Why would this be happening in a recession where we are trying to increase jobs, where we are trying to stop the trajectory of unemployment in our country?

We need to lay off, and it is time for Congress to take a stand. Individuals and businesses alike are rightfully concerned about government attempts to seize control of the Internet. Senator ENSIGN, who is the ranking member of a Commerce subcommittee—I am the ranking member on the full Commerce Committee—together we are going to submit a resolution of disapproval under the Congressional Review Act in an effort to overturn this troubling regulatory overreach by the FCC. It is time for Congress to say we have not delegated this authority to the FCC. The FCC tried to do this once before using another part of the Communications Act. They were struck down by the courts. Now they have gone to a different interpretation in a different section of the act to try to gain the capability to obstruct freedom on the Internet.

It is a huge and serious issue on which I hope Congress will take the reins and say to the FCC: If we need regulation in this area, Congress will do it.

We are elected. We are accountable. People can vote what they believe is the right approach by what we do. The FCC is not accountable to the people of our country. Yes, they are accountable to the President and the votes for today's order were from Presidential appointees of this administration. It is another big government intervention where we do not need to suppress innovation.

What we need is to embrace innovation so we can create jobs in this country with the freedom that has marked the economic vitality of America for over 200 years.

We will have a resolution of disapproval at the appropriate time in the next session of Congress. I look forward to working with other Members of Congress to take the reins on this issue. It is a congressional responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I understand Senator SESSIONS is on the floor and wishes to speak. I ask unanimous consent that the Chair recognize Senator SESSIONS, and after Senator SESSIONS, recognize myself and then Senator SHAHEEN, so we stay in order, if that is agreeable.

Mr. SESSIONS. It is agreeable to me.

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

The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to take a brief moment to express my pleasure in the fact that the continuing resolution that passed and will now be going to the House had within it a provision to allow the Navy to award the littoral combat ship competition to two of the bidders. It took a bit of a modification of the procedure to allow them to do that. It is a product of good news.

At one point in the late nineties, I chaired the Seapower Subcommittee of the Armed Services Committee. I have been a member of it. I have seen the development of the littoral combat ship concept. ADM Vern Clark determined it was the future of the Navy. We expect to have 55 of them in the fleet. They would be manned by only 40 sailors. They would be high speed, able to travel in shallow waters, and be effective for pirates or be effective for mine sweeping and other activities of that nature.

The House put in this language. We had a hearing in the committee a few days ago with Admiral Roughead and Navy officials, Secretary of the Navy Mabus, and representatives from the CRS, GAO and CBO—those ABC agencies that evaluate these kinds of proposals—and it has moved forward.

I thank Senator LEVIN for his leadership. I thank Senator INOUYE and Senator COCHRAN on our side and the House leaders also who saw fit to support the Navy's idea. It is not a plan I suggested, but it is one I believe is good.

The good news is this was enabled by the fact that as a surprise, the bids on the ships were very much below what was anticipated. The legislation required that the bids come in under $480 million per ship, and it looks as if these bids are going to be at $450 million. By having both shipyards go forward, the Navy gets a fixed price today. In other words, if aluminum goes up or electricity goes up, the shipyards are going to eat it. We will bring on both ships at the same time.

Not only that, but we would get 20 ships total in this first tranche of ships rather than 19. In addition to that, the Navy scores that it will save $1 billion, and that $1 billion they hope to apply to other ships the Navy needs in their 313-ship Navy of the future.

Ashton Carter, the DOD's acquisition executive, said:

> The U.S. Navy's recent decision to buy both classes of Littoral Combat Ship due to lower than expected bid prices is an example of what good competition can do.

It was a competitive bid. I think the Navy may have made a mistake in not allowing more benefit to the bidders based on how valuable the ship was, the total value, but they made it a rigorous cost competition and apparently got very good bids. The average bids were, as I said, $450 million.

The Chief of Naval Operations, ADM Gary Roughead, on December 14—a few days ago—testified before the Armed Services Committee. He said:

> I think the two different types [of ships] give us a certain amount of flexibility, versatility that one would not, and as I talked earlier about this ability to mix the capabilities of a force that we put in there.

This may have been when I asked a question about it at that same hearing. He said:

> I . . . believe that the designs of the ships and the flexibility of the ships . . . and also the cost of these ships open up potential of foreign military sales that would otherwise not be there.

In other words, not only could we create jobs, perhaps 3,000 to 4,000 jobs immediately, but many of our allies, with the approval of the Defense Department, might want to buy these ships for their fleets, and we would have the ability to export these products abroad.

Having been involved in seeing the vision of the Navy over a decade plus and to see that finally come to fruition is good. One Navy official was quoted in one of the major publications as saying the nature of these competitions is such there be a 100-percent chance of a protest, whichever one won the bid, and one reason is because the bid was so close. We will avoid a protest and will be able to move forward, get the ships faster, lock in the lowest possible cost, clearly lower than what would be otherwise, and maybe even be able to save enough money to build an even larger ship with it.

I thank my colleagues who worked on this issue. I believe it will be a good thing. One of the ships will be built in my hometown of Mobile, AL. I know how excited the workers at the shipyards will be to hear they will have jobs in the future producing one of the finest, most modern warships in the history of the Navy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, we are now only hours away from when we will have a chance to vote on the ratification of the New START treaty. The Senate has invoked cloture, so we are in that 30-hour postcloture period. We are now in a period where we need to consider some additional amendments, and then we will be able to vote on the ratification. I think that is good news for the United States, for national security.

I think each Member of the Senate wants to do what is right for our national security. And I wish to emphasize the point that whenever I look at a national security issue, I want to get the best advice I can from the experts—from our military experts, from our experts who are charged with making sure we have the best intelligence to protect the security of America, from our diplomatic experts, who understand the ramifications of what we do here and around the world in other areas of concern for national security. I would say it is unanimous that the experts are telling us it is in the security interests of the United States to ratify the New START treaty.

Mr. SESSIONS. Madam President, would the Senator yield for a moment?

Mr. CARDIN. I will be glad to yield.

Mr. SESSIONS. Madam President, I want to make a 1-minute comment about a Navy fellow who has been in my office. I am reluctant to interrupt, but the Senator is so eloquent, I know he can handle the interruption almost better than anybody else.

CDR Brent Breining has been assigned to my office for the year by the Navy. I hope it has been beneficial to him. I think it has been. It has certainly been beneficial to us on a host of matters. He is a man of ability, of integrity and hard work, and he symbolizes the kind of bright young men and women we have so many of in our military. I wanted to take this moment to express my appreciation for his fabulous service.

I thank the Chair, I yield the floor, and I thank my colleague for letting me interrupt him.

Mr. CARDIN. I am glad I yielded to Senator SESSIONS for that point because I do believe the fellows from the military assigned to our offices are extremely valuable in our work. I was fortunate to have CDR Andre Coleman in my office from the Navy, and I can tell you that what I learned from his presence in my office was important to me, and I think it really made me much more informed when it came to decisions I have had to make in the Senate. So this program is a very valuable program.

I was pleased to yield to the Senator so he could recognize the person in his office. He is from the Navy? He is a Navy officer?

Mr. SESSIONS. A Navy officer, yes.

Mr. CARDIN. Navy officers are always the best, and coming from Maryland, where we have the Naval Academy, we were pleased to provide some help to the Senator from Alabama.

If I can continue on the New START treaty, the real test here is the national security of our Nation. When you listen to the advice given to us by our military experts, they tell us the ratification of New START will enhance our national security. When you

talk to the people who are responsible for collecting intelligence information and analyzing that information, they tell us it is in our national security interest to ratify the New START treaty. When you talk to the political experts, those who are charged with managing our foreign policy considerations around the world, they tell us the ratification of New START will help protect our national security interest.

The reason is that when you look at this treaty and find out what is in this treaty that restricts what the United States can do and you look at the number of deployed warheads and the number of delivery vehicles we are permitted to have, our experts say those numbers are clearly achievable for us without compromising whatsoever all of our national security interests. That is what they tell us. And these numbers were not developed by the political system; they were developed by the military experts as to what is reasonable as far as limitations on deployed warheads.

When you look at the other restrictions—and we have heard a lot of debate that we are restricted on other defense issues. There is nothing in this agreement that limits missile defense issues. That is going to be a matter for our national debate. It will be a matter, in working with our allies, of analyzing where our current risks come from. But we can make independent judgments, and we are not restricted at all by the New START treaty as to how we make those judgments.

What is in this treaty is our ability to verify what the Russians are doing with their nuclear stockpile and what they are doing with their warheads and with their delivery systems. It allows us to have inspectors on the ground. Since the end of last year, we have not had inspectors on the ground. That is intelligence information that is extremely valuable for us to have. You can't substitute for that. Yes, we can get certain intelligence information from the assets we have, but having boots on the ground is critically important to our national security. So without the ratification of New START, we do not have the inspectors on the ground telling us, in fact, what Russia is doing, inspecting the warheads, and inspecting their delivery systems.

There is a third reason in addition to it being important from the point of view of what our experts are saying and in addition to the fact that it gives us verification. It also is a very important part of our national security system in working with other countries. We want to make sure we know what Russia is doing, yes. We understand Russia is a country of interest to the United States. But when you look at countries that are developing nuclear weapons, we need Russia's help and the international community working with us to make sure we prevent countries such as Iran from becoming nuclear weapon states. The ratification of this treaty will help us in those political efforts.

When you put all this together, it gives us what we need for verification. The restrictions in this treaty were worked out by our military as being what they believed was right, and it gives us the ability to continue to lead internationally not just on strategic arms reduction but on nonproliferation issues. So for all those reasons, I would urge my colleagues to vote for ratification.

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

Mr. KERRY. I wish to thank the Senator from Maryland for being a terrific member of the Foreign Relations Committee, and I thank both him and the Senator from New Hampshire for their help here on the floor this afternoon as we try to proceed on amendments as rapidly as possible for our colleagues and also try to negotiate a few of these amendments at the same time as the Senator from Arizona.

Having discussed with the Senator from Arizona the path forward, I assure colleagues that both of us hear the pleas of our colleagues, and we are anxious to try to move as rapidly as possible. But in fairness to my colleague from Arizona, I also want to make certain that he has an opportunity to have his amendments and that the other amendments are properly heard.

To that end, I ask unanimous consent that the following amendments be deemed as pending from those amendments filed at the desk. These would be the amendments eligible for consideration. I am not calling them up yet; I just want this to be a narrow list.

I apologize, Mr. President. I ask unanimous consent that these amendments be in order: Kyl No. 4864; Kyl No. 4892, as modified; Risch No. 4878; Risch No. 4879; Ensign re rail-mobile; Wicker No. 4895; Kyl No. 4860, as modified; Kyl No. 4893; and McCain No. 4900.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Mr. President, I wish to make a comment. For the benefit of Members, what we are trying to do is to identify those matters we need to try to deal with in the 30 hours postcloture on the START treaty. If Members have amendments they need to deal with, I would appreciate it if they would either communicate with me or with Senator LUGAR's staff or Senator KERRY's staff so that we can determine whether to get them on the list and where to plug them in. I would also suggest to Members that there isn't a lot of time left, and if they have comments they would like to make, now is the time to come to the Senate floor. There shouldn't be a minute of quorum call time here. There is a lot to do and not a lot of time to do it. So if Members have something, bring it to us. If they want to speak, they should come to the floor now or as soon as they can get here.

My goal is to get as many of the amendments as possible dealt with, if not with a vote then worked out by unanimous consent. What I have tried to do is to take a universe of about 70 amendments and to consolidate them into a much smaller group. So there are some specific subject areas that are not specifically dealt with. In some cases, the consolidations may not be technically related. For example, Senator LEMIEUX would like to add to one of the amendments his language dealing with tactical weapons taken from his treaty amendment but to conform it to a resolution of ratification amendment. So we may be even combining some subjects that don't necessarily relate.

The object here is to cover as much ground as possible within a limited period of time, and in order to do that we will need everybody's cooperation. Senator KERRY and I will then—and Senator LUGAR, of course—primarily try to make sure everybody gets heard who wants to be heard.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am very grateful to the Senator from Arizona for his willingness to try to do exactly what we have just done, and I pledge to him that I will work as hard as possible on our side to rapidly move on these amendments and to give them time.

I would ask for the cooperation of colleagues who want to speak on the treaty as a whole, that they not do so at the expense of being able to move an amendment. So if colleagues would cooperate with us, we will certainly, in between any activity on amendments, try to accommodate anyone who wants to talk on the treaty.

We are currently working staff to staff and negotiating out these amendments, and on some it may be possible to accept them. We will certainly try to avoid any rollcall votes, if possible. I know a number of colleagues have asked for some rollcalls on some amendments which may not be acceptable. So with that understanding—

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. If I can add, I understand Senator SHAHEEN is in order to speak next, and then Senator RISCH is available to begin; am I not correct?

Mr. KERRY. No, Senator SHAHEEN is here managing together with the Senator from Maryland while we are negotiating. So Senator RISCH would be in order to move on an amendment immediately.

Mr. KYL. OK. His numbers are 4878 and 4879, so we can begin with one of those, if it is agreeable.

Mr. KERRY. That is correct.

Mr. President, we would welcome that, and I yield the floor.

Mr. KYL. So, Mr. President, it would be in order to call up for consideration—I believe the first is amendment No. 4878, Risch amendment No. 4878.

Well, Mr. President, I said there shouldn't be any quorum call, but we are going to be a couple of minutes here. So I suggest the absence of a quorum until we are ready to go.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARPER. Mr. President, about an hour or so ago, our colleagues voted on whether we should proceed to final debate and eventually to an up-or-down vote on whether to ratify the New START treaty. I think it is safe to say most Democrats, most Republicans—even those two Independents who hang out with us—have pretty much decided on what they want to do on that final vote. I think there is a handful of Senators, maybe a half dozen or so, who are still undecided and trying to make up their minds. I just want to say I respect that. It is a serious matter, very serious matter, and there are strong arguments to be made on either side of this issue.

For those who have already made up their minds, they are probably not all that interested in what I have to say. But for the handful of our colleagues who have not decided how they believe we should proceed, how they ultimately want to vote, I want to take a few minutes and talk to them.

I want to boil this down into four questions that I have focused on as I have looked at this issue, looked at the treaty, looked at its ramifications. I want to start out by mentioning what I think the four maybe critical questions are that we should be asking ourselves.

The first question is, does this treaty make us safer? I believe it does. I think absolutely it makes us safer.

The second question is, can we afford not to ratify this treaty? I believe the answer is no; we cannot afford not to ratify this treaty. We need to.

The third question is, Can we go on to build a robust missile defense system, should we need to, if we ratify this treaty? I believe the answer is yes; we can do that if we need to.

The fourth and final question I want us to ponder is, Is ratification of the New START treaty the last word on this issue? Quite frankly, the answer is no, not at all. In fact, ratification of this treaty would just be another step, an important step, in what has been a decades-long journey. What I would like to do, if I could, is to take these questions just one question at a time.

The first question is, Does this treaty make us safer?

One of the greatest threats, and some would say the greatest threat, to our country and to its people today is the chance that terrorists might somehow acquire a nuclear weapon and detonate it inside this country. I ask my colleagues, are we doing all that we need to do to stop this from happening?

Sure, we can try to hunt down all the terrorists before they strike. In fact, we are doing that now. But we will never know where every terrorist is hiding, and I doubt we will ever have the manpower necessary to hunt them down if we did know where they were and try to stop them.

Here is what we do know, however. We know where most of the nuclear weapons on this planet are today. The majority of them are either in Russia or they are in the United States. I would like to think we do a good job of securing our nuclear weapons facilities in the United States. But Russia, as most of us know, is another story. There is a reason terrorists target Russian nuclear facilities.

While Russian security has improved recently, there are still holes, some would say gaping holes, in the physical facilities of some Russian facilities, holes that leave openings for terrorists to gain access to these weapons. That is one of the reasons we need to ratify this treaty. It limits the number of warheads that Russia can hold. Fewer Russian warheads translate into fewer chances that those weapons, those warheads, will fall into the wrong hands.

Here is another reason to ratify this treaty: Since the original START treaty expired at the end of 2009, the United States has been denied the ability to track and to verify the status of Russian nuclear weapons. The U.S. and Russian cooperation on verifying and monitoring warheads under the original START treaty helped lay the groundwork under the Nunn-Lugar cooperative threat reduction program in the 1990s. This program worked and still works to secure and dismantle Russian nuclear weapons, to keep them from falling into the hands of terrorists or rogue regimes.

New START will restore our verification and tracking capabilities that we lost last year with the expiration of the original START treaty. This, in turn, will encourage Russia to continue and to participate in the Nunn-Lugar program. In short, Americans will be safer if the treaty before us is ratified.

That leads me to the second question, Can we afford not to ratify this treaty? I believe the answer is no; no, we cannot. Let me say why.

My colleagues opposing this treaty have pointed out what they believe to be flaws in it. Some of them say the United States should have held out for a better deal. Others say the United States should have increased the number of allowed inspections or increased the number of delivery systems allowed under the treaty. They say the job of the Senate is not to simply ratify treaties but to debate and to amend them.

Let me just say, if this were a seriously flawed treaty, I would agree or if this were a flawed treaty I would agree. But it is not. The fact that so far all the amendments offered to this treaty have failed, mostly by large majorities, bears witness to that fact. Sure, we could amend the treaty language to maximize the U.S. position. We could send our diplomats back to the negotiating table with the Russians with a whole new set of terms the Russians will find unacceptable and ultimately nonnegotiable. When the Russians then walk away from the talks and the prospects of securing a new treaty die, we will ask ourselves, was it worth it to oppose ratification? Was it worth it?

When a Russian nuclear weapon goes missing and we are left in the dark because U.S.-Russian cooperation on tracking and dismantling warheads died with the treaty, we will ask ourselves, was it worth it to oppose ratification?

I believe the answer is no. Every living former Secretary of State from Kissinger to Baker to Rice shares that opinion.

Several former Secretaries of Defense, including Secretaries Schlesinger, Carlucci, Perry, and Cohen, all believe we ought to ratify this treaty in order to make our country—our country—safer. I might add, our top intelligence people agree with them.

This unlikely bipartisan coalition has come to this conclusion because they are certain that failure to ratify New START leaves our country less safe and more at risk to terror. We ignore the collective wisdom and advice of these leaders, past and present, at our peril. They have no axe to grind. They are calling it like they see it. I hope we will search our hearts—every one of us—and our minds this week and come to the same conclusion they have.

Question No. 3 was: Can we build a robust missile defense system if we ratify this treaty? That is an important question. The answer is too. And the answer is, yes, we absolutely can. There is simply nothing in this treaty that limits the United States from building the kind of missile defense system we might want and that we might need.

You do not have to take my word for it. Last month the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, bluntly stated, ''There is nothing in the treaty that prohibits us from developing any kind of missile defense.''

Let me say his words again. ''There is nothing in the treaty that prohibits us from developing any kind of missile defense.'' Those are not my words. Those are his words. Nothing, nothing in the treaty prohibits us from doing that.

Just last week Secretary Gates said that the treaty ''in no way limits anything we want or have in mind on missile defense.'' Let me repeat that as well. He said, ''The treaty in no way limits anything we want or have in mind on missile defense.'' In no way.

Simply put, this treaty gives us both what we want and what we need. It reduces the number of nuclear warheads Russia can possess, and it does so without constraining U.S. missile defense and deployment.

Some of our colleagues on the other side of the aisle, who have made up their minds that they will oppose ratification, dispute the statements of

both Secretary Gates and Admiral Mullen. Clearly, that is their right to do so. These opponents to the treaty argue that this treaty would, in fact, create limitations on our ability to build and deploy a missile defense system. With all due respect to them, I do not believe that is true. And, more importantly, neither do our top military and intelligence leaders, upon whom our Nation depends. They do not believe it is true either. In supporting this argument, some of the treaty's critics point to a provision which states we cannot convert nuclear missile launchers into missile defense launchers. We have all heard Senators KERRY and LUGAR respond to this assertion. We do not want to make these conversions. We do not want to make these conversions. Why? Because it is not cost effective. It is cheaper to build new silos rather than convert the old launchers. This is not a limitation on missile defense. It is common sense. It is cost effective. And it is certainly not a reason to vote against this important treaty.

Question No. 4 again. Question No. 4 was: Is ratification of New START the last word on this issue? And the answer is, not at all. This is not the last word. In fact, ratification is another step, albeit an important one, in a decades-long journey. Ratification reflects a vision shared by Presidents Nixon, Carter, Reagan, Clinton, George Herbert Walker Bush, and George W. Bush, as well as the people of our country, and the people of the Russian Federation.

Realizing that vision is vitally important both to Russians and to Americans, our two nations must join to lead the global community on the issue of nuclear disarmament. If we do not, no one else will.

The next step in realizing that vision requires us to ratify this New START treaty that is before us this week. Once we have done so, we should turn to redoubling our efforts to work with Russia, with China, and our allies to pressure Iran and North Korea to give up not their nuclear energy programs but their nuclear weapons programs. And as we do that, we should continue working toward future agreements with the Russian Federation on reducing tactical nuclear weapons.

Fortunately, in the resolution of ratification that contains the New START treaty language, there are instructions added by the Senate Foreign Relations Committee that order—that order—the Obama administration to pursue agreements on the limits of tactical nuclear weapons with Russia as well. Two weeks ago, Secretaries Clinton and Gates said they would pursue such an agreement with the Russian Federation in the coming years. However, we cannot continue down that path without first ratifying New START. And we must.

Let me conclude today by asking my undecided colleagues, however many there are out there, one final question. Here it is: How often do we see in this body nearly every major national security official from just about every Presidential administration of the last four decades come together to support one initiative like this? How often? The answer is, not very often, at least not on my watch.

As a captain in the Navy, as my State's Congressman, and Senator, as Governor of Delaware, and commander in chief for a while of our State's National Guard, I learned a long time ago that the best way to make tough decisions, to make the right decision, is to gather together the best and brightest minds that we can, people with different perspectives, urge them to try to find common ground, and then provide their recommendations to me.

In the case of this treaty, many of the best and brightest national security minds our Nation has ever seen, names such as Kissinger, Powell, Schlesinger, Baker, Hadley, Scowcraft, Shultz, Rice, Nunn, Warner, LUGAR, KERRY, Clinton, Bush, and Gates, agree that we should ratify New START and ratify it now.

I urge my colleagues who are still undecided on this critical issue to join me, to join us, in moving our Nation forward by voting to ratify this treaty.

Before I yield the floor, I want to take a moment to salute Senator LUGAR. I thank you and thank your staff for the terrific leadership you have provided for years on these issues, along with Sam Nunn, all of those years ago, and with JOHN KERRY and others today.

I am going to thank Senator KERRY for the terrific leadership and the great support he has gotten from his committee, from the staff, to get us to this point today.

I am encouraged that we may have the votes to finish our business and to conclude by ratifying this treaty tomorrow. I hope that handful of our colleagues who are out there who are still trying to figure out what is the right thing to do will maybe find some words in the wisdom I share today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 4855

Mr. ENSIGN. Mr. President, I ask unanimous consent that we set aside the pending amendment and call up amendment No. 4855.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 4855.

Mr. ENSIGN. 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:

AMENDMENT NO. 4855

(Purpose: To amend the Treaty to provide for a clear definition of rail-mobile missiles)

In Part One of the Protocol to the New START Treaty, in paragraph 45. (35.), strike ''and the self-propelled device on which it is mounted'' and insert ''and the self-propelled device or railcar or flatcar on which it is mounted''.

Mr. ENSIGN. Mr. President, I rise today to speak on behalf of this amendment, which would clear up any ambiguity by adding the rail mobile definition of START I to the New START treaty.

Specifically, my amendment would amend the protocol annex, part one, in terms and definitions protocol. Specifically under START I the definition of rail mobile launchers of ICBMs means an erector launching mechanism for launching ICBMs, and the rail car or flat car on which it is mounted.

Unfortunately, there is no such definition in New START. According to Konstantin Kosachev, the head of the Duma International Affairs Committee, Senator KERRY's counterpart in the Duma, the understanding on rail mobile ICBMs presumes that: ''The Americans are trying to apply the New START treaty to rail mobile ICBMs in case they are built.''

So their definition, their understanding, the Russians' understanding, is that rail mobile is not included in this treaty. That is according to Mr. Kosachev's statement in the Duma. By making this statement, we can infer that it is absolutely Russia's position that rail mobile ICBMs are not captured by this treaty or subject to the treaty's limitations. So this is an issue we must address and we must clarify.

The administration, in a State Department fact sheet, asserts that rail mobiles are covered under the 700 ceiling of deployed delivery vehicles in article II. However, Mr. Kosachev's statements imply to the contrary. Further, if rail mobiles were to fall under that cap, it would be in the definitions. There is zero mention of rail mobiles in New START.

My amendment simply clarifies this ambiguity. In the absence of New START limitations on rail mobile ICBMs and launchers, an unlimited number of these could be deployed. It may even be possible to take a road mobile SS–27 ICBM, including multiple warhead versions, and put it on a railcar. This would not in any way violate the conditions of the New START limits, because the earlier START I limits on rail mobile launchers and non-deployed mobile ICBMs do not appear in this New START.

Another way to clarify that ambiguity would be if the administration gave us full access to the negotiating records. Since they have not, however, we must amend the treaty to amend the definition back to as it was in START I.

What happens if the Russian Duma, in its ratification process, adds language in its version of their ORR, that excludes rail mobile launchers? What do we do at that time? If they do this, I would think we would have no choice but to simply take it.

Mitt Romney highlighted eloquently in an op-ed that:

The absence of any mention of rail based launchers should be remedied. U.S. advocates of the treaty say that if Russia again inaugurates a rail program, as some articles in the Russian press have suggested it might, rail mobile ICBMs would count toward the treaty limits. Opponents say that no treaty language supports such an interpretation. Russian commentators have said that rail-based systems would be discussed by the Bilateral Consultative Commission. Such ambiguity should be resolved before the treaty is approved, not after.

I will yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the amendment speaks to concerns about rail mobile missiles. First, I would emphasize it is important to note that neither side currently deploys rail mobile systems.

The Nunn-Lugar program destroyed the last SS–24 rail mobile system in 2008. They are all gone. Destroyed. The New START treaty is specifically drafted so that if Russia were to revive its rail mobile program, it would count under New START's central limits. This is underscored in our resolution of ratification through an understanding that if such systems are ever deployed by Russia, they will count as deployed ICBMs under New START, and that such railcars on BMs.

I submit that the amendment is unneeded. But more seriously, if in fact it were to be adopted, it would require renegotiation of the treaty. For that reason, as well as others I have stated as succinctly as possible, I oppose the amendment.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Nevada.

Mr. ENSIGN. Just to address the one point on the clarification in the resolution of ratification, it has been said that our resolution of ratification clarifies and we should not need this language in the definition. Here is the problem I have.

Several years ago when we were debating the Chemical Weapons Convention and riot control agents, there it is right there in the resolution of ratification that these riot control agents can be used in operations to protect civilian life. Yet to this day, our State Department lawyers continue to argue they cannot, even though in the resolution of ratification we clearly stated that these riot control agents, tear gas basically, could be used to protect civilian life. Yet our State Department continues to argue against that. That is why putting it in the definitions within the treaty, we believe, is important to clarify the difference we seem to have with the Russians based on statements they have made to the press.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this won't take too long. Let me say, first of all, I thank the Senator for bringing this up. Let me underscore: This is one of the sort of let's see if we can find a problem, and if we can find a problem, make it into a bigger problem, and then amend the treaty because amending the treaty itself—this amendment seeks to amend the treaty, so here we go right back down the road of the old ''let's open up the negotiations again'' argument. We have been through it so many times here. It has appropriately been rejected by colleagues.

I think the last vote was something like 66 to 30 on whether we will amend the treaty. That doesn't mean he doesn't have a right to raise it, but let me speak to the substance.

Going back in history on the START treaty, which is why this is a complete red herring—if you go back in the history of the START treaty, you will recall that the Soviet Union deployed 10 warheads, 10 MIRV warheads on an SS–24 intercontinental ballistic missile, and Russia deployed some 36 of those SS–24 rail-based launchers the Senator is referring to at the height of their deployment. But to comply with START I and with START II, which interestingly, we worked together on in terms of START II even though the Russians never ratified it—and the reason they didn't ratify it is because we took unilateral action and withdrew from the ABM treaty, and they were mad about it. That is why what we do matters in this relationship. We ratified the START II treaty; they didn't. So the things we choose to do have an effect.

The fact is, thanks to our colleague to my right, the distinguished Senator from Indiana, Mr. LUGAR, and Senator Nunn, who had the vision to put together the threat reduction program, that program set out to destroy Russia's SS–24 ICBMs and rail-based launchers.

This is important for all those people who have come to the floor and argued repeatedly that Russia has acted in bad faith in all of these efforts. Take note that Russia continued those cooperative efforts and continued to destroy those rail-based launchers even though they had not signed on to START II. Guess what. The last Russian SS–24 launcher was eliminated in 2007.

Now START I had a specific sublimit on mobile missiles and on rail mobile missiles. So the START treaty's definition, as a result of those two sublimits, the START treaty's definition needed to cover both the rail mobile and the road mobile launchers that were deployed at the time of the treaty. They were both put under the same roof, and that roof was the START treaty's definition. Just like the Moscow Treaty, the New START treaty contains just a plane limit, an overall limit on ICBMs and ICBM launchers, SLBMs and SLBM launchers. We have the two categories and heavy bombers with no sublimits.

That means the characteristics of strategic offensive arms limited by the treaty, in particular the deployed and the nondeployed launchers of ICBMs and the deployed ICBMs and their warheads, those characteristics do not hinge on the treaty's definition of mobile launchers of ICBMs. We don't want them to because we want this big umbrella that covers all of it, which we have the ability to verify.

If we look at exactly what the treaty says, it says the following—and I don't know which lawyers are arguing about this, but the lawyers involved between the Russians and the United States and the lawyers involved on the negotiating team and the lawyers at the State Department are not arguing about this. They understand exactly what the treaty says.

Here is what it says. Article II, 1(a) of the treaty sets the limit of 700 deployed ICBMs, deployed submarine-launched ballistic missiles and deployed heavy bombers. That is really simple. It is very straightforward—700 ICBMs, SLBMs, bombers. We have the flexibility to decide how many of each of those we want to have. We had a debate previously with our colleagues about how many we would have. But that is pretty straightforward. There is no ambiguity in that. Where is the ambiguity—700, all three, and we believe we can count all three. Paragraph 12 of part 1 of the protocol defines deployed ICBM as an ICBM that is contained in or on a deployed launcher of ICBMs. That is pretty obvious. A launcher is a launcher is a launcher.

Paragraph 13 of part 1 of the protocol defines deployed launcher of ICBMs as an ICBM launcher that contains an ICBM and is not an ICBM test launcher, an ICBM training launcher or an ICBM launcher located at a space launch facility. Those are the only three exceptions. That is it. There is no ambiguity.

It seems to me pretty darn straightforward that a rail mobile ICBM, if either side decided to deploy it, obviously falls under the 700. It is so obvious that we should not have to risk renegotiating the entire treaty over something as obvious as that.

I might add, a nondeployed launcher of a rail mobile would fall under the 700 limit in terms of the launchers. I just ask my colleagues to look carefully at this. It would be highly improbable.

The Senator from Tennessee earlier today gave a terrific speech, Mr. ALEXANDER. He said: What is all this fuss about? In the end, we are going to have thousands of these things that can destroy the whole planet anyway.

That came from a person who is pretty thoughtful on these issues, who understands that you have to put this in a context. We are not talking about the Cold War right now. We are not talking about the Soviet Union right now. We are talking about a country with which we have a very different relationship and where we have a whole set of combined interests, and you have to put this treaty into that context. It is highly unlikely that during the duration of this treaty with the Russian Federation, after years of working with the United States to destroy the weapons and work cooperatively under Senator LUGAR and Senator Nunn's program, it is unbelievably hard to believe

they are going to divert what we know to be their very limited resources and infrastructure from their planned deployment in order to do new mobile—we have a planned deployment of new mobile-based ICBM forces, and suddenly to have them go out and build and deploy rail mobile launchers, which we would observe unbelievably quickly under our national technical means.

The simple answer is that we know what they are going to do. We have a strong capacity to track what they are doing. We have every reason to believe the Russians agree with what I just said about the allocation of resources. The fact is, the resolution the Senate will vote on, in order to guarantee that we are certain about this, requires the President to communicate to the Russians in the formal instrument that ratifies the agreement, when we ratify it, assuming we do it, will ratify the understanding of the United States that the treaty would cover rail mobile launched ICBMs and their launchers, if Russia or the United States were crazy enough to try to build them. So for the life of me, I don't know what you can do more than that. But we certainly are not going to reopen the treaty for the basis of a nonambiguity like that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to add parenthetically a footnote to the chairman's presentation.

As has been mentioned frequently during this debate, for a variety of reasons, the Russians reduced the number of ICBMs below the totals that were required by the former treaty. Some Senators, in fact, have said the New START treaty, by imposing these limits of 1,550 warheads and 700 launchers, inhibits only the United States because, according to those who have argued this, Russia has already fallen below these limits.

Let me add, as a point of personal recollection, one of the reasons the Russians are below some of the standards that have been suggested is, as they thought more and more about the rail mobile situation, they decided this was either useless, expensive, or so vulnerable to potential attack that it was not worth maintaining.

As a result, as has been suggested, as it turned out, using the Cooperative Threat Reduction Program, the United States and Russia, quite outside of the last treaty, decided we would proceed under the Cooperative Threat Reduction Program to simply destroy all the rest of the rail, which we did.

Just for the sake of exhibit, I have a piece of one of the last rails to be destroyed. It was presented to us by the Russians with a proper inscription on the back of it, recognizing their appreciation to the United States for this destruction. Therefore, logically, to argue that we are back into a predicament of the Russians wanting to build rails again and launch missiles and what have you from them negates the history of cooperation, conversations that may have occurred well beyond the treaty but that have come from the fact that there were Americans working with Russians who were not involved necessarily in specifics of the treaty but, in fact, were able to effect results that were well beyond what the treaty mandated.

I mention this, again, to indicate that I believe the amendment is unnecessary. But worse still, adoption of it would, in fact, eliminate our consideration today. We would go home. It is finished.

I certainly encourage Senators, recognizing that the Russians don't want the rails, have actually worked in the Cooperative Threat Reduction Program with Americans to get rid of all of it, plus everything associated with them, that as a commonsense situation that seems to be fairly well under control. Even then, the statements we have adopted as a part of the treaty take care at least of the counting situation if, for any reason, such an emergence should occur again on the rails.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in response to the last argument that the Russians don't have any incentive to and we don't believe they are going to build the rail mobile system again, I ask, then: What is the big deal about ensuring in the treaty that if they do, they would be counted under the 700? What is the problem? The problem appears to be that the Russians don't have the same view of this as do my colleagues or the United States Government.

My colleague from Nevada quoted earlier from the Interfax report of October 29, 2010, where the chairman of the Russian Duma—parliament—committee responsible for treaties, Konstantin Kosachyov, stated—in response to the argument we have just made, that the Senator from Nevada just made, that the treaty should include rail-mobile as part of the 700 limit—he stated, in response to that claim, and in response to the resolution of ratification of the Foreign Relations Committee, that U.S. claim compelled the Duma to stop action on the treaty. He said—and I am quoting:

> The Americans are trying to apply the New START Treaty to rail-mobile ICBMs in case they are built.

That, obviously, means if he is saying: We would have to stop the Duma action on this if that is what the U.S. Government is going to claim, they are pushing back on this pretty hard. The question is, why? I do not know whether they intend to build the rail-mobile system. I do not much care whether they build it. All we care about is, if they do, it has to be included within the 700 limit.

Now, the report language of the Senate Foreign Relations Committee confirms the fact that they are not included. Here is what the report language says—and this is in direct contradiction to what was said just a moment ago—this is from page 17 of the report—

> Nevertheless, while a new rail-mobile system would clearly be captured under the Article II limits despite the exclusion of rail-mobile launchers from the definition of mobile launchers of ICBMs, those provisions that actually use the defined term ''mobile launcher of ICBMs'' would not cover rail-mobile systems if Russia were to reintroduce them.

''Would not cover.''

It goes on to say:

> ''Appropriate detailed arrangements for incorporating rail-mobile ICBM launchers and their ICBMs into the treaty's verification and monitoring regime would be worked out in the Bilateral Consultative Commission.'' Under Article XV . . . the Parties may make changes to the Protocol or Annexes. . . .

We have discussed this in the past. If there is a dispute about what the treaty means, then you go to this dispute resolution group of Russians and Americans, and they try to talk it out and work it out. But there is nothing to say they will, and if the Russian chairman of the committee is already saying we are trying to insert something into the agreement that isn't there, I wonder how successful we would be in working it out.

The report concludes:

> If Russia were again to produce rail-mobile ICBM launchers, the Parties would work within the BCC to find a way to ensure that the treaty's notification, inspection, and monitoring regime would adequately cover them.

So it is clear that it does not. It is clear from the report that the language would not cover rail-mobile systems if Russia were to reintroduce them. It is clear we would have to rely upon the Russians' good offices, good intentions, to reach some kind of an agreement with us in the Bilateral Consultative Commission. There are no assurances that will be done.

Why are we willing to proceed with an agreement that has such built in ambiguity? Why say: Well, we will let that be worked out by the BCC when we could work it out right now? It is the same answer we get with respect to every one of these proposals: Well, the Russians would then demand to renegotiate the treaty.

I ask again: Is the Senate just to be a rubber stamp? We cannot do anything to change the treaty or the protocol, or just the resolution of ratification, which is what we are trying to do because the Russians would say no, and, therefore, we cannot do it?

I thought we were the Senate. We are one-half of the U.S. Government that deals with it. The other is the Executive. The Executive negotiated the treaty. Now, why didn't they include this language? We do not know because we do not have the record of the negotiations. What I am told is that it is because the Russians said they would not include it because the rail-mobile system would be unique to Russia, and we do not have such a thing. Therefore, there would be a lack of parity. You could not have such a unilateral provision. So if that is the case, either the

Russians do intend to develop these systems, and they do not want them counted, or there should be no problem with the Ensign amendment, which would ensure that they would be counted.

So you cannot read the report language and agree with what has been said—that the treaty covers these weapons—you cannot read it and believe they would clearly be covered by the inspection and notification and monitoring regime. In fact, it clearly shows that is not the case. What you have to believe is that this built-in dispute in the treaty may well arise if the Russians decide to proceed to develop such a system, and we would then—or would arise if they decide to do that, and we would be required to go to the BCC to try to work it out with them. That, obviously, builds in a conflict that is not good.

As I said before, when you have a contract between two parties, the first thing the lawyers try to do is ensure there are no ambiguities that could cause one side or the other to later come forward and say: I did not mean that. Then you have a legal dispute. But it is one thing to have a legal dispute about buying a car or a house. It is quite another to have a dispute like this between two sovereign nations.

I would note when the United States had a system we might develop, such as the rail-mobile—but we have not made a decision to do it; we certainly do not have it—the Russians knew we wanted to at least study the possibility of developing a conventional Prompt Global Strike capability—that is to say, an ICBM that could carry a conventional warhead rather than a nuclear warhead—and they specifically insisted that we include that in the treaty.

Now, you might say: Well, wait a minute. The Russians apparently argued that they did not want to include anything on rail-mobile because the United States did not have anything on rail-mobile, and that would be a lack of parity—it would be a unilateral restriction—but the same thing is true with conventional Prompt Global Strike. The Russians have no intension of doing that, apparently. We might, just like for the rail-mobile, the Russians might. Yet they insisted a limitation be put on our conventional Prompt Global Strike—by what?—by counting them against the 700 launcher limit—exactly the same thing that should be done with regard to rail-mobile.

So, apparently, if we might do something in the future the Russians do not like, we have to count it. But if the Russians might do something in the future we do not like, we cannot count it. Our only relief then is to go to this BCC and hope the Russians would agree to something in the future that they have not been willing to agree to today.

So all the Ensign amendment does is to clear up an ambiguity and avoid a future dispute between the parties. It is clear from the report that it is not covered now. Again, the language, ''those provisions that actually use the defined term 'mobile launchers of ICBMs' would not cover rail-mobile systems if Russia were to re-introduce them.''

The report acknowledges that, therefore, in order to apply the inspection and notification and monitoring regimes, you would have to get the Russians to agree in the BCC. Why not solve that problem right now?

Again, we meet with the same argument we are always met with: Well, we do not dare change anything in here because the Russians would disagree.

I just ask my colleagues, again, is there any purpose for us being here? If every argument is, well, we do not dare change it because the Russians would disagree, so we would have to renegotiate it, maybe that suggests that there was not such a hot job of negotiating this treaty in the first place. If the Senate cannot find errors or mistakes or shortcomings and try to correct them without violating some superprinciple that is above the U.S. Constitution, which says that the Senate has that right, then, again, I do not know what we are doing here.

So I urge my colleagues to support the Ensign amendment, as with some other things we have raised, to try to avoid a conflict. Resolve the situation now while we still have time to do it rather than after the treaty is ratified when it is too late.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Maryland.

Mr. CARDIN. Madam President, I appreciate the concerns my colleague from Arizona is raising in regards to mobile launchers, particularly as it relates to rail-mobile launchers. But I am reading the same language the Senator has put on the floor, and it says very clearly that it is subject to the 700 limit. I think what my colleague is referring to is the fact that Russia today does not have rail-mobile launchers. So, therefore, there are other protocols in the treaty in regard to inspection, et cetera, that are not provided for in this treaty because it is not relevant since Russia today does not have rail-mobile launchers. But if they were to develop rail-mobile launchers, they would be subject to the 700 limitation of launchers, if it was being deployed. The consultation process will work out the procedures for adequate inspection.

So I think it is already covered under the treaty. In the language of the treaty Senator KERRY mentioned it is clear to me it is covered. But in the report language I think it is stating the obvious.

One last point, and that is, again, you do not dispute the fact that if we were to adopt this amendment, it would be the effect of denying the ratification of the treaty until it was modified in Russia, which is the same as saying we are not going to get a ratified treaty on this issue.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, might I pose a question to my colleague because I understand exactly the point he makes. He makes it accurately. I quoted the language that says that it would clearly be captured under article II limits. That is the committee's understanding, which is the point my colleague is making. But I go on to note that the exclusion of rail-mobile launchers from the definition means that it would not cover rail-mobile systems if Russia were to reintroduce them and, therefore, there would have to be work by the BCC to figure out how to deal with those under the inspection, monitoring, and notification regimes.

I understand that our committee says they believe they are captured. I see that in the report. What I am saying is, there is a dispute because the Russians do not appear to agree with that. I would just ask my colleague, how do you square, then, the Russian response? The chairman of their committee—you have dueling committees—in the Duma said:

> The Americans are trying to apply the New START Treaty to rail-mobile ICBMs in case they are built.

It appears to me what he is saying is, but they should not be doing that. In fact, his recommendation, I believe, was the Duma not take action on the treaty if that was our intent.

Mr. CARDIN. Madam President, will the Senator yield?

Mr. KYL. Yes, of course.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. To me, it is the language of the treaty itself. The language of the treaty itself is pretty clear as to what the definition of a launcher is, with three exclusions. Just look at the language of the treaty that any type of launcher would be covered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, if I could just close, and I actually had, I think, yielded the floor. So I appreciate the chance to make this final point.

All the Ensign amendment tries to do is clear up the ambiguity. My colleague says it is absolutely clear to him that they are included. I know the committee says they think it is clear. I do not think the Russians think it is clear, and I think there is a basis for an argument that it is not clear. Why not clear it up?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, the answer to the question—why not clear it up—is because if you clear it up the way the Senator is trying to, you kill the treaty. Pretty simple.

The Senator keeps asking the question, Why can't we do this? We can't do it because it kills the treaty. It is pretty simple. And the Senator knows it kills the treaty.

Now, going beyond that, come back again just for an instant to the substance. First of all, the Russian general

staff—I have been known, as chairman of the Foreign Relations Committee, to make some comments which occasionally the Joint Chiefs of Staff do not agree with. My comments are not going to drive them to do what they do not agree with. Likewise, the chairman of their foreign relations committee whom he quotes was tweaking us in his comment. But the fact is, the general staff of Russia has made it abundantly clear they do not want to build these rail-based mobile. They have no intention of doing this. They have just been destroying them. They have been taking them down and destroying them in a completely verifiable manner, and the Senator from Arizona cannot contest that. He knows that is absolutely true.

So this is a completely artificial moment designed, as others have been, to try to derail—no pun intended—the treaty.

That said, let me also point out that if you want to try to rein in this issue of rail-based, this amendment is not the way to do it because there are a whole series of protocols set up in the treaty for how you deal with road-based launchers, and you would need to begin to put in place a whole different set of protocols in order to deal with rail-based. So if, indeed, the Russians are, as I said, crazy enough, as they think it would be crazy—that is the way they define it now and we do too—to go back to something we have spent the last 15 years destroying, if that happens, we will know it. Moreover, if it happens, it is counted, as the Senator has agreed, under the article II limits for launchers. So this is a nonissue, with all due respect.

I know the Senator from Nevada wants to take 2 minutes to make a comment, and then I wish to make a unanimous consent request, if I could, after that.

Mr. ENSIGN. Madam President, I think the Senator from Arizona wishes to make a statement.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Before my colleague from Nevada closes, I know this whole argument is based on the proposition that the Russians wouldn't be crazy enough to think about doing a rail system again so we don't need to worry about it. What is all the fuss, is what my colleague said.

Well, here is a December 10—how many days ago is that now? I have forgotten. We are about to Christmas, but I have forgotten the date of today. It is from Moscow ITAR-TASS, English version. Headline: ''Russia Completes Design Work For Use Of RS–24 Missiles On Rail-based Systems.''

I want my colleague from Massachusetts to hear this. The Russians aren't crazy enough to think they could do a rail system. Here is the headline, December 10: ''Russia Completes Design Work For Use of RS–24 Missiles On Rail-based Systems.''

Just to quote a couple lines from the story:

Russia has completed design work for the use of RS–24 missiles railway-based combat systems, but implementation of the project has been considered inexpedient, Moscow Heat Engineering Institute Director Yuri Solomonov said. His institute is the main designer of these missiles. Asked whether the RS–24 missiles could be used in railway-based systems, he said, ''This is possible. The relevant design work was done . . . '' and so on.

I ask unanimous consent that this article be printed in the RECORD.

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

RUSSIA COMPLETES DESIGN WORK FOR USE OF RS–24 MISSILES ON RAIL-BASED SYSTEMS

MOSCOW, December 20 (Itar-Tass)—Russia has completed design work for the use of RS–24 missiles railway-based combat systems, but implementation of this project has been considered inexpedient, Moscow Heat Engineering Institute Director Yuri Solomonov said.

His institute is the main designer of these missiles.

Asked whether the RS–24 missiles could be used on railway-based systems, Solomonov said, ''This is possible. The relevant design work was done, but their development was deemed inexpedient. I agree with this because the survivability of this system is not better than that of the ground-based one, but it costs more.''

The RS–24 Yars missile system was put on combat duty in Russia this summer.

Earlier, the chief designer of the Moscow Heat Engineering Institute, which created the system, said that one of the RS–24 systems had already been delivered to the Strategic Rocket Forces at the end of last year.

Solomonov said, ''All journalists are writing about Bulava, but are saying little about the new mobile missile system RS–24 Yars with multiple warheads that we created at the same time.''

The Strategic Rocket Forces intended to deploy the missile system RS–24 with multiple warheads in December 2009, Commander of the Strategic Rocket Forces Lieutenant-General Andrei Shvaichenko said in October 2009.

''The intercontinental ballistic missile RS–24 put into service will reinforce combat capabilities of the attack group of the Strategic Rocket Forces. Along with the single-warhead silo-based and mobile missile RS–12M2 Topol–M already made operational the mobile missile system RS–24 will make up the backbone of the attack group of the Strategic Rocket Forces,'' the general said.

Silo-based and mobile missile systems Topol–M, as well as RS–24 mobile missile systems were designed by the Moscow Heat Engineering Institute.

The warheads of Russia's newest Topol–M and RS–24 intercontinental ballistic missiles can pierce any of the existing of future missile defences, Strategic Rocket Forces Commander, Lieutenant-General Sergei Karakayev said earlier.

''The combat capability of silo-based and mobile Topol–M ICBMs is several times higher than that of Topol missiles. They can pierce any of the existing and future missile defence systems. RS–24 missiles have even better performance,'' Karakayev said.

The Strategic Rocket Forces have six regiments armed with silo-based Topol–M missiles and two regiments armed with mobile Topol–M missiles. Each missile carries a single warhead. This year, Russia began deploying RS–24 ICBMs with MIRVs. There is currently one regiment armed with RS–24 missiles.

Speaking of other ICBMs, Karakayev said that RS–20V Voyevoda (Satan by Western classification) would remain in service until 2026. ''Their service life has been extended to 33 years,'' he said.

On July 30, 1988, the first regiment armed with RS–20B Voyevoda missiles was placed on combat duty in the Dombarovka missile formation in the Orenburg region.

''This is the most powerful intercontinental ballistic missile in the world at the moment,'' the press service of the Strategic Rocket Forces told Itar-Tass.

With a takeoff weight of over 210 tonnes, the missile's maximum range is 11,000 kilometres and can carry a payload of 8,800 kilograms. The 8.8–tonne warhead includes ten independently targetable re-entry vehicles whose total power is equal to 1,200 Hiroshima nuclear bombs. A single missile can totally eliminate 500 square kilometres of enemy defences.

By 1990, Voyevoda missiles had been placed on combat duty in divisions stationed outside of Uzhur, Krasnoyarsk Territory, and Derzhavinsk, Kazakhstan. Eighty-eight Voyevoda launch sites had been deployed by 1992.

Mr. KYL. Madam President, I am not arguing that this issue has been resolved within Russia as to whether to go forward. I am not arguing whether it is a good thing or a bad thing. I simply submit it in response to the argument that the Russians would be crazy to think about doing this. Either they are crazy or—well, in any event, I would never attribute that motivation to anybody, even somebody from another country. The fact is, they have begun design work on exactly such a project.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. It is my understanding that the Russian referred to in that article is saying how difficult it is to do the rail-based. But here is the simple reality. If they build it, it will count, end of issue. That is why this is unnecessary.

I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, to wrap up this debate, let me address, first of all, the whole idea that changing this treaty in any way kills the treaty. Under the Constitution, certainly it is the President's role, the administration's role, to negotiate the treaties. We all recognize that. But under the Constitution, the Senate is tasked with advice and consent. That means we are to look at the treaties, and if we think they should be changed—and we have changed treaties over the years—then we are free to change the treaties. That is why there is a process set up, such as this amendment process, to change the treaties. So if we have fundamental objections to the treaty, I think we can have a debate on whether we should, on a particular amendment, change the treaty on the merits of the amendment, but we shouldn't just say we can't change any part of a treaty because it kills the treaty, because we have a constitutional role in advice and consent on whether we approve treaties.

Just a couple points to make.

First of all, this is from the State Department's Bureau of Verification, Compliance, and Implementation. I ask unanimous consent that it be printed in the RECORD.

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

[From the Bureau of Verification, Compliance, and Implementation, Aug. 2, 2010]

RAIL-MOBILE LAUNCHERS OF ICBMS AND THEIR MISSILES

Key Point: Neither the United States nor Russia currently deploys rail-mobile ICBM launchers. If a Party develops and deploys rail-mobile ICBMs, such missiles, their warheads, and their launchers would be subject to the Treaty.

Definitions: The New START Treaty defines an ICBM launcher as a ''device intended or used to contain, prepare for launch, and launch an ICBM.'' This is a broad definition intended to cover all ICBM launchers, including rail-mobile launchers if they were to be deployed again in the future. There is no specific mention of rail-mobile launchers of ICBMs in the New START Treaty because neither Party currently deploys ICBMs in that mode. Russia eliminated its rail-mobile SS–24 ICBM system under the START Treaty. Nevertheless, the New START Treaty's terms and definitions cover all ICBMs and ICBM launchers, including a rail-mobile system should either Party decide to develop and deploy such a system.

A rail-mobile launcher of ICBMs would meet the Treaty's definition for an ICBM launcher. Such a rail-mobile launcher would therefore be accountable under the Treaty's limits.

Because neither Party has rail-mobile ICBM launchers, the previous definition of a rail-mobile launcher of ICBMs in the START Treaty (''an erector-launcher mechanism for launching ICBMs and the railcar or flatcar on which it is mounted'') was not carried forward into the New START Treaty.

If Russia chose to develop and deploy rail-mobile ICBMs, such missiles and their launchers would be subject to the Treaty and its limitations. Specific details about the application of verification provisions would be worked out in the Bilateral Consultative Commission. Necessary adjustments to the definition of ''mobile launchers of ICBMs''—to address the use of the term ''self-propelled chassis on which it is mounted'' in that definition—would also be worked out in the BCC.

Accountability: A rail-mobile launcher containing an ICBM would meet the definition of a ''deployed launcher of ICBMs,'' which is ''an ICBM launcher that contains an ICBM.''

Deployed and non-deployed (i.e., both those containing and not containing an ICBM) rail-mobile launchers of ICBMs would fall within the limit of 800 for deployed and non-deployed launchers of ICBMs and SLBMs and deployed and non-deployed heavy bombers.

The ICBMs contained in rail-mobile launchers would count as deployed and therefore would fall within the 700 ceiling for deployed ICBMs, SLBMs, and heavy bombers.

Warheads on deployed ICBMs contained in rail-mobile launchers therefore would fall within the limit of 1,550 accountable deployed warheads.

Applicable Provisions: Separate from the status of the rail-mobile ICBM launcher, all ICBMs associated with the rail-mobile system would be Treaty-accountable, whether they were existing or new types of ICBMs, and therefore would, as appropriate, be subject to initial technical characteristics exhibitions, data exchanges, notifications, Type One and Type Two inspections, and the application of unique identifiers on such ICBMs and, if applicable, on their launch canisters.

Mr. ENSIGN. Madam President, let me just read one paragraph from this:

If Russia chose to develop and deploy rail-mobile ICBMs, such missiles and their launchers would be subject to the Treaty and its limitations.

That is according to our State Department.

Specific details about the application of verification provisions would be worked out in the Bilateral Consultative Commission.

So, in other words, if Russia decides to build these things, then the verification has to be worked out by the Bilateral Consultative Commission. It isn't that it is set in there exactly what would happen, but the verification certainly would have to be worked out.

The bottom line is, we believe there is ambiguity because of the statements made by the Russians themselves. That is the problem. If the Russians, in their statements in the Duma, if they have been saying: Yes, we agree with exactly the interpretation the Americans have been making, it would be a different story and we probably wouldn't need this amendment. But because their statements—Senator KERRY's counterpart in the Russian Duma has said the Americans are trying to bring into this New START treaty mobile launchers, and the Russians don't think they should be in there. So we think we should clarify that language in a very unambiguous way, based on my amendment, to make sure there is no question on each side.

I appreciate what the Senator from Massachusetts is saying, that they have destroyed their—it would be crazy for them to build them again. But as the Senator from Arizona just talked about, they are at least designing. Maybe they have a better system to use for rail-mobile launchers. We don't know that. But what we do know is, they don't think this language applies, the language in the treaty applies to the mobile launchers. So they could get around this treaty and the number of warheads they could have, based on the language that is currently in the treaty.

I just ask our colleagues to seriously consider removing the ambiguity and voting for the Ensign amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I don't think we need to repeat. I appreciate the Senator from Nevada and I understand what he is saying. I completely agree with him about the advice and consent role of the Senate, but part of that role is to make a judgment about whether the consequences of some particular concern merit taking down the whole treaty and putting it back in the renegotiation process. It is not that we can't or shouldn't under the right circumstances; it is a question of balancing what are the right circumstances. We are arguing, I think appropriately, because the report of our committee says clearly that rail-mobile will be covered under article II and this is unnecessary. So weighing it that way, it doesn't make sense to do it.

Let me say to my colleagues that I think we want to move to the Risch amendment, and I think it is the hope of the majority leader to try to have two votes around the hour of 6 o'clock, if that is possible, and then to proceed to the Wicker amendment.

I yield the floor to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 4878

Mr. RISCH. Madam President, I wish to call up amendment No. 4878.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. RISCH] proposes an amendment numbered 4878.

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

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

The amendment is as follows:

(Purpose: To provide a condition regarding the return of stolen United States military equipment)

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

(11) RETURN OF STOLEN UNITED STATES MILITARY EQUIPMENT.—Prior to the entry into force of the New START Treaty, the President shall certify to the Committees on Armed Services and Foreign Relations of the Senate that the Russian Federation has returned to the United States all military equipment owned by the United States that was confiscated during the Russian invasion of the Republic of Georgia in August 2008.

Mr. RISCH. Madam President and fellow Senators, I bring you what I believe to be the first amendment to the resolution of ratification. We have had a number of amendments that have been to the actual treaty itself. We have listened to objection after objection that: Oh, my gosh, we can't possibly amend the treaty because if we do, we are going to have to sit down and talk to the Russians again.

We don't have to worry about that with this amendment. This is an amendment to the resolution of ratification. It will not require that we sit down with the Russians and negotiate. Frankly, I don't know what is wrong with that. Frankly, I think it is a good idea after all the problems that have been raised with the treaty. But, nonetheless, if that is an overriding concern, you can set that aside and listen to the merits of the amendment.

I have to tell my colleagues that part of this I bring as a matter of frustration. I have been involved with this for months, and I am so tired of hearing about accommodation after accommodation after accommodation to the Russians. It appears, before we even

started with this, the Russians said: Well, we are going to have to have in the preamble language that says missile defense is related to this, and we said no. We have to have the ability to protect our country and build missile defense. The Russians said it has to be in there. It is in there. The next thing we said: You know, for 40 years we have been doing this, and you guys have a 10-to-1 advantage over us on tactical weapons; that is, short-range weapons. We ought to talk about that because you want to talk about parity on strategic weapons. No, it can't be in there. We accommodated the Russians again. Every time we turn around and put out a problem here—just as we heard on this rail thing—every time we turn around and put out a problem that ought to be addressed, the people who are promoting this stand and apologize, they accommodate, they say it is OK, they overlook it, and we go on and on and on.

I am sitting here listening to this on the rails, and the one side says: Well, don't worry about it; they are never going to build this anyway. We pull up an article that says they are in the process of doing this. Well, yes, but don't worry about it because it is going to be counted anyway.

So I have something here that, hopefully, we are not going to apologize to the Russians for. We are not going to accommodate them. We are going to tell them that if you want a relationship with us, you have to be honest with us.

We all know, and it has been widely reported, that they cheat. They are serial cheaters. They cheated in virtually every agreement we have had with them. If we are going to have a relationship with them and press the restart button—and I think we should. We should press the reset button. We should have a decent relationship with them. But let's wipe the slate clean and let's start with the military equipment they have stolen from us. That is all this is about.

On August 8 of 2008, as we all know, the Russians invaded Georgia, and when they invaded Georgia, it was pretty much of a mismatch. They ran over the top of them, did a lot of bad things, and eventually there was a peace accord that was brokered by President Sarkozy, and the next amendment I have deals more in-depth with that.

But when they ran over the Georgians, the American military had just been there doing exercises with the Georgians because the Georgians were kind enough to engage with us and help us in Afghanistan. They were preparing to send troops to Afghanistan to help us. So we Americans went over there and we said: OK. We need to do some military exercises, engage in some joint training, so we can get you ready to go into Afghanistan. We are now preparing to leave. We have completed the exercises. We are preparing to leave. We obviously took a lot of our equipment over there, not the least of which were four American humvees. The four American humvees were shipped to a port in Georgia and were in the process of being shipped back to the United States. There is no argument that the title to these four humvees is with the people of the United States of America. They belong to me. They belong to you. They belong to the U.S. military. They belong to all of us.

The Russians, when they overran the Georgians and got to the seaport, found our humvees, and what did they do? Did they say: Well, yes, they belong to the Americans; we will put them on the boat that is supposed to go back to the United States? No. They said: We are going to take them, and they stole them. Today, they still have them.

The United States has asked for the four humvees back. But let me tell my colleagues where the four humvees are. If you want to see a picture of them, you can go to msn.com and search Georgia and humvees and you can see a picture of our humvees. Where are they? They are in the Russian Central Armed Forces Museum in Moscow, Russia. That is where our four humvees are. What are they doing there? They are on display as a war trophy, taken by the Russians as a war trophy. Well, we weren't engaged in that war.

So if we are going to have a good relationship with them, is it too much to ask to give us back the property they stole from us a little over 24 months ago?

So this is an easy one to vote for. I have had discussions with my good friend from Massachusetts. He said this isn't related. This is absolutely related. We are entering into a marriage on a very important issue.

Shouldn't we ask that they give us our stolen property back? And shouldn't they say: Yes, we want to set the reset button too. We want to hold hands and sing ''Kumbaya.'' We want to be friends.

Well, that is fine, but give us back our stolen military equipment.

That is all this asks for. It doesn't jeopardize the treaty; it just says it goes into force as soon as they give us our four humvees back.

I yield the floor.

Mr. CARDIN. Madam President, let me first tell my colleague that I support the treaty because it is in the best interest of the United States. It is in our national security interest. It is not an accommodation to Russia. This treaty helps us on national security. That is what our military experts tell us. That is what our intelligence experts tell us. That is what our diplomats tell us. On all fronts, the ratification of this treaty makes us a safer nation. So it is not an accommodation to Russia.

On the issue the Senator is concerned about, both the Obama administration and this body have repeatedly reaffirmed our commitment to Georgia's territorial sovereignty and integrity. We very much want Russia to withdraw. We are very sympathetic to the issue the Senator brings to our attention. We have taken action in this body to support Georgia's territorial integrity. The START treaty and its ratification is important in reestablishing confidence on verification as it relates to our relationship with Russia on strategic arms, but it is also important for the engagement of Russia on other issues. We can do more than one thing at a time.

President Saakashvili of the Republic of Georgia said:

> We all want—I personally want—Russia as a partner and not as an enemy. Nobody has a greater stake than us in seeing Russia turn into a country that truly operates within the concert of nations, respects international law, and—this is often connected—upholds basic human rights. This is why I wholeheartedly support the efforts of European and American leaders to strengthen their relationship with Russia.

The leader of Georgia understands that a better relationship between Russia and the United States will help Georgia and its territorial integrity. This treaty and its ratification will help not only build confidence between Russia and the United States but will help the other countries of Europe, particularly a country such as Georgia.

So the chairman of the committee is absolutely correct—and I think we can verify that with the Parliamentarian—that this is not relevant on the issue we have before us. It is not part of the treaty we have negotiated. It is not part of the ratification process. It is not the appropriate forum for this type of amendment to be considered. It should be rejected on that basis.

The important thing in moving forward with U.S. influence on Russia as it relates to its neighbors, such as Georgia, is to move forward with ratification of this treaty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I will be very quick. I don't think we need to spend a lot of time on this. First of all, we agree with the Senator from Idaho that under normal circumstances the equipment they have would be best returned to the United States, and there are many good-faith ways in which they might do that. But the fact is that the way this is phrased, it has just two enormous problems. First, it says prior to the entry into force of the treaty. So we are linking this ancillary issue to this entire treaty, which bears on a whole set of other national security considerations.

I want the four humvees back, and whatever the small arms are, which raises another issue, but I am not willing to see this entire treaty get caught up in that particular fracas. We have an unbelievable number of diplomatic channels and other ways of prosecuting that concept, and I pledge to the Senator that I am prepared, in the Foreign Relations Committee, to make certain we attempt to do that, as well as deal

with the question of Russia's compliance with the peace agreement with respect to the cease-fire in Georgia and so forth. These are essential ingredients, and we will talk about that in a moment.

It also says they have to return all military equipment. It doesn't specify. This could become one of those things where we are saying, you have this, and they say, no, we don't. Are we talking about small arms? What about expended ammunition? Who knows what the circumstances are?

This is not the place or the time for us to get caught up in linking this treaty to this particular outcome. I really think that stands on its own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, obviously one of the purposes of these two amendments is to respond to one of the arguments that has been raised in support of this treaty. We have this wonderful new reset relationship with Russia, and were we to not ratify the treaty, that relationship would be frayed, and who knows how much Russia might react to it? It would be harder to get their cooperation on things. Those are all arguments that have been made.

I think one of the points of these two amendments is to show that the reset relationship between Russia and the United States has not produced all that much good behavior or cooperation on the part of the Russians. I earlier detailed all of the ways—at least a few—in which Russia had been very unhelpful to the United States with regard to Iran. I noted I think 2 days ago or maybe yesterday that in the U.N., they were trying to water down a resolution dealing with North Korea that we are working hard to try to obtain. They have been very difficult to deal with with regard to North Korea and Iran. At the end of the day, I think they only do what is in their best interest, in any event—not basing their decisions of what is in their best interests on some concept of a new friendliness with the United States.

I think part of the reason my colleague from Idaho offered these two amendments is to simply demonstrate that this new relationship isn't all that its cracked up to be if they won't even give us some equipment they confiscated when they invaded Georgia. That is not a major point in international diplomacy, and it certainly isn't a major point with respect to U.S. military capability. It is illustrative of something.

The point of the amendment is to say that you have quite a bit of time before this treaty enters into force. A lot has to happen. It is sent to Russia, the Duma has to deal with it, and so on.

Just return the stuff. Maybe that little gesture of good will would help to reestablish this so-called reset relationship in ways they have not been able to accomplish by getting Russian support with the U.N. resolutions and other actions with regard to sanctions on Iran and diplomacy with North Korea.

One can say it is not a big deal, this military equipment, but on the other hand, they say it will destroy the treaty if we have this particular amendment. The reality is that we are simply trying to make a point that the Russians have not acted well in a variety of situations. I cannot think of a better example than the invasion of Georgia, the continued violation of the cease-fire agreement they signed there, and the violation of the U.N. resolution.

I would reiterate, at the summit declaration—this is where the NATO members, meeting in Lisbon last month, joined together to call for a resolution to the problem, saying, ''We reiterate our continued support for the territorial integrity and sovereignty of Georgia within its internationally recognized borders.'' And then they urge all to play a constructive role and to work with the U.N. to pursue a peaceful resolution of the internationally recognized territory of Georgia. And then the final sentence:

> We continue to call on Russia to reverse its recognition of the South Ossetia and Abkhazia regions of Georgia as independent States.

That is the kind of cooperation we are getting from the Russian Federation these days. I appreciate the amendments brought forth by my colleague to highlight that fact.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I agree with Senator KYL and support the Risch amendment. I remember at a NATO conference not too many years ago President Bush was advocating for Georgia being a member of NATO, to show you how serious these matters are. So had we voted to bring Georgia into NATO—and they were on the short list—we would be in a situation in which the Russians would be invading a NATO country. The act of Russia invading Georgia was a dramatic event.

The proponents of the treaty portrayed this matter as advancing our relationship with Russia. I think Senator KERRY has been not so aggressive—that hasn't been one of his themes. But a lot of people have, and I think he was wise not to go down that road.

A lot of people have tried to say we are going to get along with Russia better by signing this treaty with them. That is not a sound basis to sign a treaty. We all need a better relationship with Russia. That I certainly acknowledge. Georgia would certainly benefit from it, and hopefully the world will have a better relationship with Russia.

But I am unable to fathom a lot of the Russian activities, frankly. It is just difficult for me. Why have they negotiated so hardheadedly on this treaty to actually reduce the number of inspections over what we had in the previous treaty? Why? I thought Russia was about wanting to move forward into the world and be a good citizen in the world community. I haven't seen it. I am worried about it.

So the question is, if we abandon or concede too much, are we helping develop a positive relationship? I think Senator RISCH is saying: Look, we have a serious problem. They are holding our military equipment. Are we not even going to discuss that?

How do we get to a more positive relationship with our Russian friends? I think the people of Russia are our friends. How do we get there? Is it through strength, constancy, consistency, principle, and position, or is it through weakness, placating, concession, and appeasing? Is that the way to gain respect and move us into a healthier relationship? I don't think so.

I think we have only one charge, and that is to defend our legitimate interests. I believe this administration has been too fixed on a treaty, and, as one observer and former treaty negotiator has said: If you want it bad, you will get it bad. In other words, if you want the treaty too badly, you won't be an effective negotiator. I remember during this process, on more than one occasion, warning and expressing concern to our negotiators that we appeared to be too anxious to obtain this treaty and, if so, the Russians would play us like a fiddle. I am afraid that is what has happened.

I think this Congress would do the President, the world, Russia, and our country a service if we said what Senator RISCH says: OK, guys, how about letting our equipment be sent back. If you are not willing to do that, then we have a serious problem.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. RISCH. Madam President, first of all, to my good friend from Maryland, I agree with much of what he said about our relationship and the relationship between Georgia and Russia. I will speak about that in the next amendment I am going to offer, which is No. 4879, right after this one. I know the Senator didn't talk about our stolen military equipment by the Russians.

To my friend from Massachusetts, who responded to what I said, I say: Here we go again. This is exactly why I brought this amendment. We are again accommodating the Russians. Why can't we just once ask them to behave themselves and say: Look, this is not a big matter, but you are acting like a thief.

Do you want to see what they did? I made reference for you to go on the Internet to see the pictures, but here they are. If you are a good American, you can go there and you can watch your property right here being towed away by the Russians, back to Moscow, to put on display as a trophy. Here is another picture of it right here. This is even better. This is one of our humvees being towed by the Russians. This humvee is headed back to Moscow, where it is now displayed as a trophy.

Is it too much to ask, where we are going to enter into this agreement and supposedly befriend and supposedly reset the button on our relationship, is it too much to say: Look, you stole from us. You are acting like a thief. Give us back the property we own.

Is that asking too much of the Russians? Can we not just once, instead of accommodating them, instead of apologizing for them, instead of saying we should not tie this to that or we will not get it, can we not just once say: Give us our stolen property back.

That is all we are asking here. It is not a big thing, but it does give us a clear indication of what they are thinking, of what their relationship is with us, of what they want their relationship to be with us.

This is not asking too much. This does not blow up the treaty. It simply says they pack up the four humvees and, and as soon as they do, the treaty goes into effect. That is not too much to ask.

I yield to my good friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, this has been cleared on both sides.

I ask unanimous consent that at 6 p.m., the Senate proceed to votes in relation to the following amendments to the START treaty and the resolution of ratification: Ensign amendment No. 4855 and Risch amendment No. 4878; further, that prior to the votes, there be no second-degree amendments in order to the amendment, and that the time before the votes be divided equally between the sponsors and myself or their designees.

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

The Senator from Alabama.

Mr. SESSIONS. Madam President, I will share one thought I remember so vividly before Russia invaded Georgia. We were at a NATO conference. There was a discussion outside the normal meeting. One weak-kneed, I suppose, European explained to the Georgians why it was difficult for the other nations to support Georgia in their idea to be in NATO and suggested it was difficult because Russia was a big and powerful country.

The Georgian replied—and I have never forgotten it—saying: Well, sir, we think it is a question of values. Mr. Putin said last year the greatest disaster of the 20th century was the collapse of the Soviet Union. We in Georgia believe it was the best thing that happened in the 20th century. It is a question of values. We share your values. We want to be with you.

I have to say it is deeply troubling to me that our Russian friends are being so recalcitrant and so aggressive and so hostile to sovereign states such as Georgia, the Ukraine, the Baltics, and Poland. They used to be a part of the Soviet empire. They are now sovereign nations, independent in every way.

Conceding, as part of these negotiations, the deployment of a ground-based interceptor missile defense system in Poland to comply with Russian demands during this treaty process was a terrible thing, especially when we did not even tell our friends in the sovereign nation of Poland we intended to do it before we announced it with the Russians.

The Senator is just raising a reality. I say to Senator RISCH, we have some problems here, and we might as well put it out on the table, be realistic about it, and take off the rose-colored glasses. This amendment is one way to say let's get serious and talk with our Russian friends about some serious difficulties we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, I call up Risch amendment No. 4879.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Madam President, at this time there is, until we have an opportunity—we were going to work this out with Senator KYL after the vote. So I object to it at this moment.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. I believe Senator KYL had two amendments he wanted to get up at this point in time.

Mr. KYL. What was the unanimous consent request?

Mr. KERRY. The Senator from Idaho requested to go to his next amendment, which is No. 4879. That was the one the Senator from Arizona and I were talking about with respect to an issue we wanted to work out with the Parliamentarian before we go to it. I think the Senator and I had agreed he would like to go to two other amendments next in line. We will come back to this issue.

Mr. KYL. Madam President, that understanding is fine. There are two Members who I think will be ready to go forward with their amendments immediately following the two votes at 6 o'clock.

Again, for benefit of the Members, it is my hope that we can continue to work through as many amendments as possible this evening, maybe have debate a couple at a time and vote, whatever the body desires. But perhaps we could continue at least to work through a few more amendments yet this evening.

Mr. KERRY. I agree with that completely. We have a fairly limited list, and I think it is possible to move through them rapidly. I appreciate the efforts of the Senator from Arizona to do so.

Madam President, how much time do we have on our side?

The PRESIDING OFFICER. Six minutes.

Mr. KERRY. I yield 4 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I thank my colleague from Massachusetts, Senator KERRY. I wish to respond to Senator RISCH's amendment because I am very sympathetic to the concerns he is raising.

All who watched Russia's invasion of Georgia had to be outraged about what happened. In fact, I have a resolution I have submitted with Senators GRAHAM and LIEBERMAN. I hope, perhaps, the Senator from Idaho might be willing to take a look at this resolution and work with us on it next year because one of the things it does is it calls upon the Government of Russia to take steps to fulfill all the terms and conditions of the 2008 cease-fire agreement, including returning military forces to prewar positions and ensuring access to international humanitarian aid to all those affected by the conflict.

It also deals with a number of other provisions in that resolution with respect to Georgia.

I also point out, as I am sure my friend from Idaho knows, that Georgia has recognized it is in their interest to have relations with Russia that can address their border concerns in a way that is positive, to have Russia working with the international community as opposed to working as a pariah. They may represent what we have heard from all our NATO allies with respect to the START treaty; that it is in the best interest of our NATO allies. We have heard from those countries that border Russia—Latvia, Poland, and a number of other countries—that they would like to see the United States ratify the New START treaty.

I am in agreement with the concerns Senator RISCH raised. I have questions about whether this is the best way to do it, given the confines of the New START treaty and our efforts to get this into effect as soon as possible so we do not continue to have a situation where we do not have inspectors on the ground in Russia who can help gather intelligence, who can see what is going on with their nuclear arms in a way that would also benefit Georgia.

I understand the concerns. I agree with those. But I cannot support this amendment because of the negative impact it might have on ratifying the treaty.

Mr. RISCH. Madam President, may I respond.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, somehow the debate about the relationship between Russia and Georgia and our relationship as far as Georgia is concerned has crept into this debate. This amendment has nothing to do with Georgia, other than the fact that is where the theft took place. The international criminal offense of theft of our military property took place in Georgia. That is the only thing Georgia has to do with this. This has nothing to do with the relationship. Amendment No. 4879 has a lot to do with it. When we get there, we will talk about that.

I regret my good friend from New Hampshire cannot support this amendment, because although I suspect I will

support the resolution, we do a lot of these resolutions. We do the resolution and send it off to the Russians. They are going to be laughing up their sleeve at us, whilst they are fondling our equipment that they have possession of.

There are no teeth in these resolutions. We actually have the opportunity to do something to get our military equipment back. If they are acting in good faith, if they are people of good will, if they want a relationship with us, then they are going to have to make a choice: Do we keep four humvees or do we give them back so this treaty can go into effect? That is the choice they are going to have to make.

That is not too tough a choice to put on them. Do you want to continue to be thieves or do you want to be honest about this and deliver the goods you have stolen? There is nothing wrong about that. This gives us the opportunity, I say to the good Senator, to do what you exactly do on the resolution, but it is going to give it some teeth.

I yield the floor.

Mr. KERRY. Madam President, how much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. KERRY. On both sides? How much remains on the proponents' side?

The PRESIDING OFFICER. The minority has 19 seconds; the majority has 3 minutes.

Mr. KERRY. I suggest the absence of a quorum. I withhold that request.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I, first, thank the Senator from Idaho for bringing up this issue. I might tell him, I have a laundry list of issues with which I would like to deal with Russia.

I have the honor of chairing the Helsinki Commission. We have a lot of human rights issues with Russia, and we raise them all the time as aggressively as we can. I am proud the Obama administration has raised these issues at the highest level with the Russian Federation. We are very sympathetic to the issue the Senator has brought up. It is the wrong vehicle to deal with this issue. It is the wrong vehicle. This treaty is important for U.S. national security. That is why I support the ratification. That is why I urge my colleagues to support the ratification.

Yes, it is appropriate in our advise-and-consent role for us to take up issues that are relevant to the subject matter of the treaty. The problem is, the issues the Senator from Idaho is bringing up are not relevant to the subject matter of the treaty. Therefore, it is the wrong vehicle to take up this issue.

I do not want the Senator from Idaho to interpret my opposition to his amendment as opposing what he is trying to do. I agree with what he is trying to do. It is the wrong vehicle on which to put it. I urge the Senator to work with Senator SHAHEEN, work with the Helsinki Commission on other issues.

The issue the Senator is bringing up about the return of property is very important to America. We believe in many cases the Russian Federation is not living up to their international commitments under international agreements. We will bring those up, and we will fight in those forums. But this treaty is in our interest. This treaty and our actions should deal with the four corners of the agreement.

In that respect, I very much oppose the Senator's amendment.

Mr. RISCH. Madam President, may I claim my 19 seconds.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, with all due respect to my good friend from Maryland, this is exactly the right vehicle to bring this up. This is a vehicle of trust, and it is a vehicle that puts some teeth in an otherwise toothless thing.

As far as human rights versus this stolen property, this is very objective, it is hard, you can see it. The human rights violations I think are entirely different. They certainly are important. They certainly rise to as high a level, but this is objective.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Madam President, I believe all time has expired; is that correct?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KERRY. I yield back my time.

The PRESIDING OFFICER. Time is yielded back. All time is expired.

VOTE ON AMENDMENT NO. 4855

The question is on agreeing to the Ensign amendment No. 4855.

Mr. KERRY. 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 293 Ex.]

YEAS—32

Barrasso	Crapo	Inhofe
Brown (MA)	DeMint	Isakson
Bunning	Ensign	Johanns
Burr	Enzi	Kirk
Chambliss	Graham	Kyl
Coburn	Grassley	LeMieux
Cochran	Hatch	McCain
Cornyn	Hutchison	McConnell
Risch	Shelby	Vitter
Roberts	Snowe	Wicker
Sessions	Thune	

NAYS—63

Akaka	Feinstein	Mikulski
Alexander	Franken	Murkowski
Baucus	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (OH)	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shaheen
Casey	Leahy	Specter
Collins	Levin	Stabenow
Conrad	Lieberman	Tester
Coons	Lincoln	Udall (CO)
Corker	Lugar	Udall (NM)
Dodd	Manchin	Voinovich
Dorgan	McCaskill	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The amendment (No. 4855) was rejected.

VOTE ON AMENDMENT NO. 4878

The PRESIDING OFFICER (Mr. UDALL of Colorado). Under the previous order, the question is on agreeing to the Risch amendment No. 4878.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I move to table the Risch amendment. I ask for the yeas and nays, and I ask unanimous consent this be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. GILLIBRAND), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mrs. GILLIBRAND) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 294 Ex.]

YEAS—61

Akaka	Cardin	Feingold
Alexander	Carper	Feinstein
Baucus	Casey	Franken
Begich	Collins	Hagan
Bennet	Conrad	Harkin
Bennett	Coons	Inouye
Bingaman	Corker	Johnson
Boxer	Dodd	Kerry
Brown (OH)	Dorgan	Kirk
Cantwell	Durbin	Klobuchar

Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lugar
Manchin
McCaskill
Menendez
Merkley
Mikulski
Murkowski
Murray
Nelson (NE)
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sanders
Schumer
Shaheen
Specter
Stabenow
Tester
Udall (CO)
Udall (NM)
Warner
Webb
Whitehouse

NAYS—32

Barrasso
Brown (MA)
Bunning
Burr
Chambliss
Cochran
Cornyn
Crapo
DeMint
Ensign
Enzi
Graham
Grassley
Hatch
Hutchison
Inhofe
Isakson
Johanns
Kyl
LeMieux
Lieberman
McCain
McConnell
Risch
Roberts
Sessions
Shelby
Snowe
Thune
Vitter
Voinovich
Wicker

NOT VOTING—7

Bayh
Bond
Brownback
Coburn
Gillibrand
Gregg
Wyden

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. CORKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we are in a position now—we don't have the consent agreement completely fixed, but we know what we are going to do. We are going to have three votes, three different amendments. There would be a half hour debate on each amendment. So we likely will have a series of votes at 8:15 or thereabouts tonight. Senator KERRY will offer a consent agreement to this effect very shortly. In the meantime, we can start debating one of the amendments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I understand there will be three amendments we will proceed with. Two will be offered by Senator KYL and one by Senator WICKER. Senator WICKER is prepared to call up his amendment.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 4895

Mr. WICKER. I ask unanimous consent to call up amendment No. 4895 by Wicker and Kyl.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. WICKER], for himself and Mr. KYL, proposes an amendment numbered 4895.

Mr. WICKER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide an understanding that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent)

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

(4) BILATERAL CONSULTATIVE COMMISSION.—It is the understanding of the United States that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

Mr. WICKER. Mr. President, I rise this evening to offer another amendment to the resolution of ratification. This amendment rises out of concerns over the Bilateral Consultative Commission known as the BCC. The BCC has been referred to numerous times in debate today. Article XII of the treaty establishes the BCC as a forum for the parties to resolve issues concerning implementation of the treaty. Part six of the protocol says the BCC has the authority to resolve questions relating to compliance, agree to additional measures to improve the viability and effectiveness of the treaty, and discuss other issues raised by either party. This clearly is very broad authority given to the BCC. In effect, the subject matter jurisdiction of the BCC seems limitless, based on the clear language of article XII.

Former National Security Adviser under President George W. Bush, Stephen Hadley, appeared before the Foreign Relations Committee and expressed concerns over this treaty. He stated, with regard to the Bilateral Consultative Commission:

The Bilateral Consultative Commission seems to have been given authority to adopt, without Senate review, measures to improve the viability and effectiveness of the treaty which could include restrictions on missile defense.

It is that element of Senate review that this amendment would inject back into the process.

Others have voiced concern that the mandate of the BCC is overly broad. This should trouble Senators. It is why I offer this amendment to place proper limits on the power of the BCC.

I hold in my hand a fax sheet written by the Department of State Bureau of Verification, Compliance, and Implementation, dated August 11, 2010. I ask unanimous consent that it be printed in the RECORD.

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

[FROM THE BUREAU OF VERIFICATION, COMPLIANCE, AND IMPLEMENTATION, AUG. 11, 2010]

BILATERAL CONSULTATIVE COMMISSION (BCC)

Key Point: The New START Treaty establishes the BCC to work questions related to Treaty implementation. The use of treaty-based commissions to agree on limited technical changes to improve or clarify implementation of treaty provisions is a well-established practice in arms control treaties.

Background: The New START Treaty authorizes the Parties to use the Bilateral Consultative Commission (BCC) to reach agreement on changes in the Protocol to the Treaty, including its Annexes, that do not affect substantive rights or obligations. The START Treaty's Joint Compliance and Inspection Commission and the Intermediate and Shorter Range Nuclear Forces Treaty's Special Verification Commission were assigned similar responsibilities by those treaties.

The Chemical Weapons Convention, the Open Skies Treaty, and the Conventional Forces in Europe Treaty provide similar authority to effect technical changes that are deemed necessary by the Parties during the implementation of the respective treaty.

Authority of the BCC: In addition to making technical changes to the Protocol, including its Annexes, that do not affect substantive rights or obligations, the BCC may: resolve questions relating to compliance with the obligations assumed by the Parties; agree upon such additional measures as may be necessary to improve the viability and effectiveness of the Treaty; discuss the unique features of missiles and their launchers, other than ICBMs and ICBM launchers, or SLBMs and SLBM launchers, referred to in paragraph 3 of Article V of the Treaty, that distinguish such missiles and their launchers from ICBMs and ICBM launchers, or SLBMs and SLBM launchers; discuss on an annual basis the exchange of telemetric information under the Treaty; resolve questions related to the applicability of provisions of the Treaty to a new kind of strategic offensive arm; and discuss other issues raised by either Party.

If amendments to the Treaty are necessary, the Parties may use the BCC as a framework within which to negotiate such amendments. However, once negotiated, such amendments may enter into force only in accordance with procedures governing entry into force of the Treaty. This means that they would be subject to the advice and consent of the United States Senate.

This provision ensures that the Senate's Constitutional role in providing advice and consent to the ratification of treaties is not undermined.

RULES GOVERNING THE WORK OF THE BCC

The BCC is required to meet at least twice each year in Geneva, Switzerland, unless the Parties agree otherwise.

The work of the BCC is confidential, except if the Parties agree in the BCC to release the details of the work.

BCC agreements reached or results of its work recorded in writing are not confidential, except as otherwise agreed by the BCC.

Mr. WICKER. The fax sheet mentions on more than one occasion that changes adopted by the BCC cannot affect substantive rights or obligations. It says under background: ''The New START treaty authorizes the parties to use the Bilateral Consultative Commission, BCC, to reach agreement on changes in the protocol to the treaty, including its annexes, that do not affect substantive rights or obligations.''

Further down under authority of the BCC, the State Department fax sheet says: ''In addition to making technical changes to the protocol, including its annexes that do not affect substantive rights or obligations, the BCC may,'' and then it lists the six bullets. First, resolve questions relating to compliance with the obligations assumed by the parties. Secondly, agree upon such

additional measures as may be necessary to improve the viability and effectiveness of the treaty. Next, discuss the unique features of missiles and their launchers other than ICBM and ICBM launchers or SLBM and SLBM launchers referred to in paragraph 3 of article V of the treaty that distinguish such missiles and their launchers from ICBM and ICBM launchers and SLBM and SLBM launchers. Next, discuss on an annual basis the exchange of telemetric information under the treaty. Fifth, resolve questions related to the applicability of provisions of the treaty to a new kind of strategic offensive arm. And finally, discuss other issues raised by either party. But the changes may not affect substantive rights or obligations of the parties.

''Rules governing the work of the BCC: The BCC is required to meet at least twice a year in Geneva unless the parties agree otherwise. The work of the BCC is confidential, except if the parties agree in the BCC to release details of the work,'' and ''BCC agreements reached or result of its work recorded in writing are not confidential . . . '' The BCC can agree to amendments in the treaty, but they must be submitted back to the Senate for advice and consent. It is a very powerful commission, no doubt. And it is reassuring to have this fax sheet saying that substantive changes cannot be made by the BCC.

It would be more reassuring if we put this in writing, and that is what the Wicker-Kyl amendment 4895 does. It is very simple and it uses the State Department language, stating that provisions adopted by the BCC that affect substantive rights—and these are the words used by the State Department in the fax sheet—are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

The bottom line is this: If it is determined that a substantive change has been made by a decision of the BCC, then that change should be subject to the advice and consent of the Senate.

I urge a ''yes'' vote to this very simple but straightforward amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the amendment offered by Senator WICKER is an amendment that is looking for an issue. There is no issue that is joined here with respect to the bilateral commission or what it might do with respect to the creation of rights. But if this amendment were to pass, there would be an issue, not only an issue with respect to Russian participation but actually an issue that could be harmful to the United States. This is a little bit technical and it is a tricky thing to follow in some ways, but let me lay this out.

Under the START treaty, the prior treaty under which we have lived since 1992, and now under the proposed New START treaty, the consultative commission that we create in the treaty will get together in order to work out the problems that may or may not arise and is allowed to agree upon ''such additional measures as may be necessary to improve the viability and the effectiveness of the treaty.'' If those additional measures they might approve at some point in time are changes to the protocol or to its annexes and if the changes don't affect substantive rights or obligations under the treaty, then it is entirely allowable for those changes to be adopted without referring them back to the Senate for any advice or ratification. The Senators' proposed amendment would make it U.S. policy all of a sudden that the phrase ''do not affect substantive rights or obligations'' means ''doesn't create new rights or obligations.'' So there is a distinction between affecting substantive rights and then having the operative language that kicks it into gear become the creation of rights or obligations. This proposal is unnecessary.

Why? We have operated without it for 15 years under the START treaty without a single problem. The New START treaty uses the exact same approach that has worked for 15 years. We have a lot of experience in determining what constitutes substantive rights or obligations.

More importantly, I mentioned a moment ago that this could be harmful to American interests. Here is how. It would actually require that agreements we want to move on and that act in our national security interest would be delayed and referred to the Senate, and we all know how long that could take, even if the new rights or obligations that they created were absolutely technical in nature. No matter how technical or trivial, they have to come to the Senate to become hostage to one Senator or another Senator's other agenda in terms of our ability to move, at least as structured here.

Under START, the compliance commission adopted provisions on how inspectors would use radiation detection equipment to determine that the objects on a missile that Russia declared not to be warheads were, in fact, nonnuclear and, therefore, not warheads. There was absolutely no need for the Senate to hold hearings, write reports, or have a floor debate on that provision, even though it created a new right for the inspecting side and a new obligation for the hosting side in an inspection. We don't want to take away our ability to be able to do that. This amendment would do that.

Similarly, the commission under START reached agreement from time to time on changes in the types of inspection and equipment that a country could use. Equipment changes over time, as we know. Technology advances, so the equipment changes. Giving U.S. inspectors the new right to use that equipment or the new obligation to let Russian inspectors use it hardly warrants referral to the Senate for its advice and consent.

In summary, this amendment is unneeded. We have done well without it. Not well—we have done spectacularly without it for 15 years. No problems whatsoever. On the other side, it is a dangerous amendment because it forces us to delay for months the implementation of technical agreements that our inspectors ought to be allowed to implement without delay.

I reserve the remainder of my time and ask unanimous consent that upon the use or yielding back of time specified below, the Senate proceed to votes in relation to the following amendments to the resolution of ratification: Wicker 4895, Kyl 4860, and Kyl 4893; further, that prior to the votes there be no second-degree amendment in order to any of the amendments and that there be 30 minutes of debate on each amendment equally divided between the sponsors of the amendment and myself and/or my designee or the designee of the sponsors; further, I ask unanimous consent that the time already consumed by Senator WICKER and myself be counted toward this agreement.

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

Mr. KERRY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining on the Wicker amendment.

Mr. KERRY. I yield 3 minutes to the Senator from Maryland.

Mr. CARDIN. Let me thank Senator WICKER for bringing forward this amendment. I know it is an amendment he feels very strongly about. I compliment him because I believe a good part of what he was concerned about is already in the resolution of advice and consent on ratification.

As the Senator pointed out, there is a consultation process before the Bilateral Consultative Commission to meet on any changes that would modify the treaty itself. There has to be consultation with Congress on those issues, as the Senator pointed out in his comments. So I think we have already taken care of the major concern the Senator has that it would be a substantive decision made by the Bilateral Consultative Commission.

Secondly, let me point out that whatever the Bilateral Consultative Commission does, it is limited by the treaty itself, which, hopefully, will have been ratified by both the United States and Russia. So there will be a limit on the ratification already in the process.

As Senator KERRY pointed out, we certainly do not want to hold up Senate ratification for minor administrative issues, knowing how long Senate ratification of anything related to a treaty could take.

The last point I want to bring out is, the Senator mentioned missile defense, and I know this has been brought up over and over and over. But in our advice and consent to the ratification of the treaty, we have already put in that:

. . . the New START Treaty does not impose any limitations on the deployment of

missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, ''Each Party shall not convert and shall not use ICBM launchers or SLBM launchers for placement of missile defense interceptors therein.''

So we already put in the resolution the concern that the Senator has voiced as the major reason he wanted to expand the consultative process, which is also already included in the resolution.

I think the point Senator KERRY has raised is that this would make it technically unworkable for the Bilateral Consultative Commission to do its work if we required Senate consultation or ratification every time the Commission wanted to meet.

For all those reasons, I urge my colleagues to reject the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Mississippi.

Mr. WICKER. Mr. President, if no one else seeks time on this amendment, I would be prepared to close.

It may be that my friend from Maryland is satisfied that there are no restrictions on missile defense in this aspect of the treaty. But it did not satisfy Stephen Hadley, the National Security Adviser to former President George W. Bush, who came before our committee with concerns.

It seems to me we have a very simple way to address those concerns. Let me reiterate to my colleagues the quote of Mr. Hadley:

The Bilateral Consultative Commission seems to have been given authority to adopt without Senate review measures to improve the viability and effectiveness of the Treaty which could include restrictions on missile defense.

I would also agree with my colleague from Maryland that, indeed, the BCC has the authority to negotiate amendments to the treaty. That is acknowledged in the factsheet by the State Department.

The simple step beyond that I am trying to do with my amendment is to make it clear, using the terms supplied to us by the State Department that say: The BCC cannot make changes that affect the substantive rights or obligations of the United States. I am trying to make that part of the resolution of ratification, and that is all it does. It says if the BCC adopts provisions that affect substantive rights or obligations under the treaty that create new rights or obligations, that those changes must come back to the Senate. It is in addition to the requirement that amendments to the treaty come back to the Senate for ratification, and it is a protection of the rights of this body to continue to have a role in substantive modifications that might come out of the BCC.

I urge the adoption of this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Maryland.

Mr. CARDIN. Mr. President, I will say, I think we just have a disagreement. I think where Senate confirmation would be at issue is where there is an amendment to the treaty, and that is exactly what is included in our resolution.

I think it is unworkable to try to get the Senate involved in all the changes in trying to say what is substantive and what is not. I think you would be interfering with the administration of the verification systems, et cetera. So I would just urge our colleagues to reject the amendment.

I say to Senator WICKER, I think on our side we are prepared to yield back. So if the Senator would like to——

Mr. WICKER. Mr. President, I yield back.

Mr. CARDIN. Mr. President, we yield back the time on this amendment.

As I understand the unanimous consent agreement, it is 30 minutes per amendment. Then I think we are prepared to go to Senator KYL for his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, a point of inquiry before I begin. Is there a reason I should speak to either amendment No. 4860 or amendment No. 4893 first?

The PRESIDING OFFICER. The Senator can speak in whatever order he wishes, but neither amendment has been offered.

Mr. KYL. Thank you, Mr. President.

AMENDMENT NO. 4860

Then, Mr. President, with that, I would like to offer amendment No. 4860, SLCM side agreement, which I believe is pending at the desk. I would ask for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4860.

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

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

The amendment is as follows:

(Purpose: To require a certification that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty)

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

(11) LIMITATION ON NUCLEAR-ARMED SEA-LAUNCHED CRUISE MISSILES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty.

Mr. KYL. Mr. President, this is actually a very straightforward amendment. It simply seeks to repeat in this New START treaty the same thing the then-Soviet Union and United States did in the previous START I treaty with respect to a particular kind of weapon—a Russian weapon called the SLCM or sea-launched cruise missile.

As part of START I, we reached a binding side agreement—a side agreement—because the Senate had said we needed to include these weapons in the treaty. So a side agreement was reached that they would limit a deployment of sea-launched cruise missiles or the SLCMs due to their impact on strategic stability, the point being that whether these sea-launched cruise missiles are deemed tactical or strategic, they actually have a strategic component, especially if they are sitting right off your coast and they are launched and they can hit your country. So that agreement was put into a side agreement between the then-Soviet Union and the United States.

But when this New START treaty was negotiated, there was no similar side agreement. So there were no restrictions on SLCM deployments. The side agreement in the START treaty limited both nations to fewer than 800 SLCMs with a range greater than 600 kilometers. In the 2010 Nuclear Posture Review, the administration committed to unilaterally eliminating our SLCM capability.

The United States will retire the nuclear-equipped sea-launched cruise missile (TLAM-N).

Under Secretary Miller said:

The timeline for its retirement will be over the next two or three years.

Now Russia is developing a new version of its SLCM, with a range of up to, approximately, 5,000 kilometers, which is a longer range than some of the ballistic missiles that are covered by the New START treaty.

So that is why we believe there should be a side agreement, just like there was in START I, that deals with these SLCMs. We are not going to have them, Russia is. Yet there is nothing in the treaty that would count their SLCMs against the total limit of warheads or delivery vehicles that are allowed under the treaty or in any other way deal with them.

The administration assures us we should not be concerned about a lack of a formal agreement. Secretary Clinton noted that the START I treaty did have a limitation on sea-launched cruise missiles and said that both parties ''voluntarily agreed to cease deploying any nuclear SLCMs on surface ships or multipurpose submarines.''

But today it is obvious, with the information about Russian plans, that there is going to be a great disparity between the United States and Russia. As I said, it is not obvious that saying one is tactical, as opposed to the strategic weapons that are otherwise limited by this treaty, is a very important distinction. I think it is really a distinction without a difference.

Steve Hadley, the former head of the NSC, said:

And if you're living in eastern or central Europe, a so-called tactical nuclear weapon,

if you're within range, looks pretty strategic to you. So what are we going to do about those?

As I said, he was the National Security Adviser.

Ambassador Bob Joseph, in testimony before the Foreign Relations Committee, said:

Every time I hear the term ''nonstrategic nuclear weapons,'' I recall that no nuclear weapon is nonstrategic.

If you stop and think about it, that is certainly true.

So these weapons, which are very powerful, and can have a range of up to 5,000 kilometers, clearly need to be dealt with.

Now, we did not want to insist that they go back and renegotiate the treaty because we heard that argument before, so what we are suggesting by this amendment is simply to do the same thing we did in START I—just have it be a side agreement where the two parties would agree to limit the number. Our administration would limit the Russians so they would not have a significant number of these particular weapons.

Just a point, by the way: In the event there are folks who do not believe the Russians intend to rely on their weapons such as the SLCMs, Under Secretary of Defense Flournoy said: The Russians are ''actually increasing their reliance on nuclear weapons and the role of nuclear weapons in their strategy.''

Secretary Gates has made the same point. He said:

Ironically, that is the case with Russia today, which has neither the money nor the population to sustain its Cold War conventional force levels. Instead, we have seen an increased reliance on its nuclear force with new ICBM and sea-based missiles, as well as a fully functional infrastructure that can manufacture a significant number of warheads each year.

And the Strategic Posture Commission noted:

This imbalance in non-strategic nuclear weapons, which greatly favors Russia, is of rising concern and an illustration of the new challenges of strategic stability as reductions in strategic weapons proceed.

The point has been made by many others as well.

So I think this is fairly straightforward. It would require the United States to negotiate a side agreement with Russia, very similar to the side agreement we had under START I, to deal with a weapon that we are no longer going to have, but the Russians are apparently developing a new version of, that has a pretty substantial range—5,000 kilometers. Clearly, it is very difficult to distinguish the difference between a weapon like that and the strategic offensive weapons that are otherwise dealt with in the treaty.

I hope my colleagues will recognize this is not a treaty killer, and it is something that needs t be addressed.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. First, let me thank Senator KYL for bringing this issue to our attention. I think this is a very important issue. We have a lot of security issues as they relate to Russia, as they relate to Europe, and as they relate to the sea-launch cruise missiles. I couldn't agree with the Senator more. But this falls under the same category of the discussion we had earlier about a side agreement on tactical weapons.

These are all beneficial issues, but it is not the key issue that is before us today. If we were to adopt this amendment, I think we all would agree it would cause a considerable delay in the implementation of the START treaty.

Let me remind my colleagues that the START treaty, according to our military experts, is needed now. We have been a year without having inspection regimes in Russia so we can get the intelligence information we need by people on the ground. That expired in December of last year. So we have already been delayed through this year, and the longer we delay, the less reliable the information we have for our own national security.

Although it would be nice to have all of these side agreements with Russia on a lot of other issues, every time we ask our negotiators to do that, it takes time. It takes a lot of time to negotiate. It is not all one-sided when you negotiate. My colleagues know that. We know that here as we negotiate issues.

This is an important issue, but it shouldn't delay the ratification and implementation of the New START treaty so that we can get our inspectors on the ground, giving us the information we need for our own national security as it relates to the strategic capacity of Russia.

For all of those reasons, I urge my colleagues to reject the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator from Maryland is absolutely correct, and I appreciate him pointing that out. I think I have said many times in the course of this debate that it is imperative for us to deal with the issue of tactical nuclear weapons. In fact, the resolution of ratification has a section in it which specifically addresses this and urges the President to move to that.

I might add that the Senator from Florida, Mr. LEMIEUX—we are just finishing up an agreement on an amendment which will, in fact, add an additional component. It is an amendment we intend to accept, and it will add an additional emphasis on this question of tactical weapons.

But not only is there no benefit to delaying this treaty from going into effect—I mean, that is what the amendment of the Senator from Arizona will do. Until this new verification and limitation mechanism is put into effect—the fact is that most of our experts, from Secretary Gates through Admiral Mullen and others, have all said to us: If we don't get this treaty, we are not going to get to the tactical nuclear discussion with the Russians.

If we were the Russians and the U.S. Senate said: We are not going to do this until this, we would be looking at a long road where we have reopened all of the different relationships and we have discarded this one component of our nuclear deterrent that we find so critical, which is the submarine-launched missiles, the intercontinental ballistic missiles, and the heavy bombers. That is the heart of our nuclear deterrence. We want to know what they are doing and they want to know what we are doing, and that is how you provide the greatest stability.

In addition to that, Secretary Gates and Secretary Clinton have both reinforced that many times, but here is the important thing to think about as we think about what the impact on this treaty would be. Nuclear-armed sea-launched cruise missiles—or SLCMs, as we call them in the crazy vernacular of this place—these are tactical weapons, and although this amendment seems to suggest that Russian SLCMs could upset the strategic balance between the United States and Russia, the truth is, they cannot. They don't do what this amendment seems to suggest.

For many years, going back at least to the Reagan administration, we have considered these kinds of weapons to be nonstrategic weapons, tactical weapons. Even if they are long range, we consider them that. Secretary Gates and Admiral Mullen explained why in their answer to a specific question from the Senate. They said:

Russian nuclear-armed sea-launched cruise missiles . . . could not threaten deployed submarine-launched ballistic missiles (which will comprise a significant fraction of U.S. strategic force under New START), and would pose a very limited threat to the hundreds of silo-based ICBMs that the United States will retain under New START.

In other words, Russian nuclear SLCMs can't take out our nuclear deterrent in a first strike. That means if Russia were to use nuclear SLCMs against us, we could still use most of our strategic nuclear weapons and deliver an absolutely devastating blow in return. No logic in the sort of give-and-take of war planning, as horrible and as incomprehensible as it is to most people with respect to nuclear weapons, but it has all been done, appropriately, because they do exist, and it is important to our security. But no warfighting under those situations is going to reduce our ability to not just defend ourselves but to annihilate anyone who would propose or think about doing that.

Ironically, it was the Soviets who once wanted to do what Senator KYL is actually seeking to do. They wanted to categorize SLCMs as strategic weapons because we used to deploy a nuclear version of the Tomahawk on our attack submarines, and the Soviets

worked very hard to get the original START treaty to cover SLCMs. Guess what. We didn't bite. We didn't do that. The first Bush administration explicitly rejected those Soviet efforts to add legally binding limits on sea-launched cruise missiles. They considered SLCMs tactical weapons, and they also thought that limits on nuclear sea-launched cruise missiles are inherently unverifiable. That is, in part, because we didn't want to give the Soviets that much access to our submarines in return for access to theirs, and we don't want to do it now with the Russians. Now, maybe people were wrong about that, but I just don't see the wisdom in putting the treaty we have agreed on on the shelf while we go out and try to experiment with a new approach that nobody has argued is imperative for the security of our country.

Back then, we did agree in politically binding declarations to a limit of 880 deployed long-range nuclear SLCMs and to declare at the beginning of the year how many SLCMs we intended to deploy for that year. Those political declarations stayed operative for many years, and, in fact, Secretary Gates stated for the record that as recently as December of 2008, Russia has declared that it planned to deploy zero nuclear SLCMs.

Shortly after START was signed in 1991, the United States and Russia each pledged as part of the Presidential nuclear initiative to cease deploying any nuclear SLCMs on surface ships or attack submarines. So while we have four former ballistic missile submarines converted to cruise missile submarines, we are no longer deploying our nuclear Tomahawk missiles on any U.S. submarines. The Presidential nuclear initiatives are still operative for us and for the Russians, and we think we are more secure that way.

So I see nothing to be gained from negotiating a new binding agreement in the context of holding up this treaty, of putting it on the shelf, and of going back in an effort to do that.

This amendment would delay the New START for months or years, throw an entire curveball back into what I talked about yesterday, which is that theory of negotiation that nothing is agreed upon until everything is agreed upon. And in this case, if we say: Oh, no, ain't agreed upon, sorry, we are coming back to say you have to agree with us on tacticals before any of this becomes law, we have opened the entire negotiation again. How reliable and what kind of partnership is that? I don't think that makes sense. I fail to see any point in going down that road.

I urge my colleagues to defeat this amendment, and I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Arizona has just under 8 minutes.

Mr. KYL. Mr. President, I am a little bit flummoxed here because I thought in a conversation I had a couple of days ago with Senator KERRY that side agreements might be all right; that we didn't want to amend the preamble or didn't want to amend the treaty but that we could perhaps do some side agreements. So we structured this as a side agreement just exactly as was done in START I.

Mr. KERRY. Will the Senator yield?

Mr. KYL. On the Senator's time, I would be happy to.

Mr. KERRY. I would be happy to urge, if he wants to change the amendment or if he wants to submit—it is too late now, but we could perhaps do a modification by unanimous consent to urge the President to enter into an agreement but not shelve the whole treaty until that happens. That is the difference. So I am not going back on the notion. It would be great to get a side agreement, but don't hold this agreement up in the effort to do it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, there was no delay in the implementation of the START I agreement because of a requirement that a side agreement be entered into between the then-Soviet Union and the United States on SLCMs. So I don't buy the notion that this necessarily would delay anything.

Secondly, we are not talking about tactical missile limitations generally. All we are doing is talking about the same kinds of missiles that were the subject of the side agreement under START I. I suspect that part of the reason was because it is pretty difficult to distinguish as to whether these weapons are being used for a strategic or a tactical purpose. Senator KERRY has said they cannot upset the strategic balance. I simply totally disagree with that proposition. They absolutely can upset the strategic balance, depending upon where they are located or how they intend to be used. That is one of the reasons I suspect they were limited under the START I treaty.

My colleague said they can't threaten our submarine fleet at sea and they pose only a limited threat to ICBM sites. Well, that may be the opinion of our experts. They could sure threaten our submarine bases in Washington State at King's Bay. They could take out bases or other assets we have.

In fact, let me quote from a Russian article, the RIA Novosti Report of April 14, 2010, on the Graney class nuclear submarines:

> Graney class nuclear submarines are designed to launch a variety of long-range cruise missiles up to 3,100 miles or 500 kilometers with nuclear warheads and effectively engage submarines, surface warships, and land-based targets.

Obviously, at 5,000 kilometers, as I said, that is a range longer than some of the ballistic missiles that are covered by the New START treaty. So these weapons—it is a little hard to characterize them as either tactical or strategic. I think it depends upon how they are used.

But the point is, if my colleague believes they can't threaten anything, then what is the problem with trying to set a limit on them? Well, obviously—or at least I assume obviously—the Russians don't want to do that. I assume we raised this, though we don't have the negotiation record, so I don't know whether it was raised. If it wasn't, why wasn't it? And if it was because we didn't think there was any threat to the United States, then I think it would be very important to ask some of our military folks why they think that is the case given the kinds of targets that could be held at risk here and given the fact that we apparently reached a different conclusion during the START I treaty implementation phase when the side agreement was negotiated with the then-Soviet Union.

So I don't think it would delay anything. We do posit it as a side agreement rather than an amendment. We just say that the administration should negotiate so that there wouldn't be a significant number of SLCM deployments by the Russians given the fact that we are not doing any.

I do have to say that I fundamentally disagree with the assertion of my colleague that this kind of weapon can't upset the strategic balance. If you have a weapon that can fly over 3,000 miles with a nuclear warhead, which could be just as big of a nuclear warhead as on a bomber or an intercontinental ballistic missile, with all of the targets on our eastern seaboard or western seaboard that would be held at risk for such a weapon—in fact, 3,000 miles—you won't have to be far off either of our two U.S. coasts to hit most targets within the continental United States.

This is a weapon that it seems to me we should be concerned about. Therefore, I urge my colleagues to support calling for a side agreement that would deal with the SLCMs just as we did under the START I treaty.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I say to Senator KYL, these missiles are not strategic. Do they affect our strategic balance? I say that everything in our defense toolbox can affect our strategic balance. That was taken into consideration in the negotiations. I thank him for bringing this issue to our attention, but for the reasons we have stated, we urge our colleagues to reject the amendment.

We are prepared to go to the Senator's next amendment if he is prepared to go forward.

Mr. KYL. Mr. President, I will respond with about 30 seconds. Then I will be prepared to go to my next amendment. Perhaps I can reserve whatever time I have left on there to make a closing argument.

I really do sincerely appreciate the characterization of these issues we have raised as serious and important. I do appreciate that. I do think, though,

that it would be appropriate to have a better response than just that this will upset the Russians, they won't want to do it, so we will have to renegotiate the treaty, and that it will delay things and that will create problems.

The purpose is not to delay, as I said. I don't think the START I treaty was delayed when we reached a side agreement.

I think, in any event, the question is this: Should the United States delay, if that is what is called for, in order to improve the treaty in important respects? If it is conceded that this is an important aspect, then it seems to me that it is worth taking time to do it right.

Most of the arguments that have been made in response to the amendments we have raised boil down to: The Russians won't want to do what you say, and therefore we need to reject your amendment because it would require some renegotiation. I get back to the point I have made over and over: Then what is the Senate doing here? Why would the Founders have suggested we should have a role in relation to treaties if every time we try to change something, the argument is that you cannot change a comma because the other side wouldn't like that and that would require renegotiation?

There is nothing that serious about this treaty that it has to go into effect tomorrow. The Washington Post had an editorial, and they said that no great calamity will befall the United States if this treaty is not concluded before the end of the year. I think that is almost a direct quotation. There is no immediate national security reason to do so. I know the administration would like to get on with it, but no great harm will befall us if we take time to do it right. If we are not willing to do that, the Senate might as well rubberstamp what the President sends up because the argument will be that if we try to suggest changes, the other side will reject them and we could not possibly abide that.

I will reserve the remainder of time on this amendment.

AMENDMENT NO. 4893

Mr. President, I call up amendment No. 4893, which I believe is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4893.

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

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

The amendment is as follows:

(Purpose: To provide that the advice and consent of the Senate to ratification of the New START Treaty is subject to an understanding regarding the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting, is subject to the United States and the Russian Federation reaching an agreement regarding access and monitoring, and is subject to a certification that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty)

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

(11) COVERS.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the President has reached an agreement with the Government of the Russian Federation on the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting.

(12) TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the United States has reached a legally-binding agreement with the Russian Federation that each party to the Treaty is obliged to provide the other full and unimpeded access to its telemetry from all flight-test of strategic missiles limited by the Treaty.

(13) TELEMETRIC EXCHANGES ON BALLISTIC MISSILES DEPLOYED BY THE RUSSIAN FEDERATION.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty.

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

(4) TYPE ONE INSPECTIONS.—The United States would consider as a violation of the deployed warhead limit in section 1(b) of Article II of the Treaty and as a material breach of the Treaty either of the following actions:

(A) Any Type One inspection that revealed the Russian Federation had deployed a number of warheads on any one missile in excess of the number they declared for that missile.

(B) Any action by the Russian Federation that impedes the ability of the United States to determine the number of warheads deployed on any one missile prior to or during a Type One inspection.

Mr. KYL. Mr. President, I would have preferred to deal with each of the subjects in this amendment individually because each one is very important. To accommodate the other side's desire to try to get as much done as quickly as possible, we consolidated some amendments, and there is a lot in this. I regret that we don't have time to get into detail about each one of them.

This amendment amounts to an effort to try to improve the verification of the treaty to deal with a variety of issues which have been raised in the past and which we believe are inadequately dealt with by the treaty. One of them involves covers, the kinds of things the then-Soviet Union and now Russians consistently put over the warheads so that it is impossible for our inspectors to see what is under them, to see how many warheads are under them. That has been a problem in the past.

On telemetry, we say the President should certify to the Senate that he has reached a legally binding agreement with the Russian Federation so that each party is obliged to provide full and unimpeded access to its telemetry from all flight tests of strategic missiles limited by the treaty. That is important because while we are not developing a new generation of missiles, the Russians are. We will be denied the telemetry of those missile tests if the Russians decide to deny it. Our intelligence community has told us that this is of great value to us in assessing the capabilities of Russian missiles. Under the treaty, they don't have to provide anything. They could provide telemetry on old missiles they are testing, and they don't have to provide any on any of the new missiles they are testing. We believe that should be done. The same thing with respect to any ballistic missiles deployed during the duration of the treaty.

Then we turn to the subject of inspections. There are different kinds of inspections, but we are talking here about type one inspections in which we say that the United States would consider it a violation of the deployed warhead limit and a material breach of the treaty if the Russians do one of two things: No. 1, any type one inspection that revealed that the Russian Federation had deployed a number of warheads on any one missile in excess of the number they declared for that missile; No. 2, any action by the Russian Federation that impedes the ability of the United States to determine the number of warheads deployed on any one missile prior to or during a type one inspection.

That gets to the issue of covers again. Why is this important? Because we are supposedly counting weapons in this treaty, warheads. There is a limit of 1,550 warheads. How can we possibly verify compliance if, when we seek to count the number of warheads on top of missiles we have designated and have a right to inspect, we can't count the warheads? You tell me how we are supposed to assume how many warheads there are on the top of that particular missile or why we should not deem it a material breach if they declared a certain number of warheads and it turns out there are more.

I think these are commonsense changes that would strengthen the verification provisions of the treaty.

It is too bad Senator BOND is not here tonight. He is the ranking Republican member of the Intelligence Committee. In the classified session we had yesterday, he talked about the deficiencies in verification under this treaty. This subject doesn't permit us to get into a lot of detail in open session.

We have heard a lot about past cheating by the Russians and the kinds of things that were done. What we are trying to do with these basic components is to make it less likely that the Russians would cheat, and if they do, it would less likely have an impact on the

key element of the treaty, which is the limitation on warheads of 1,550.

I will note a couple of things here that put this into context.

There have been allegations that there is better verification than ever before under this treaty. That is just not true. The verification provisions of this treaty are not as strong as under the START I treaty. There is an argument that they don't need to be for various reasons or the Russians weren't willing to allow them to be for various reasons. I don't think you can say the verification is better.

Former Secretary of State James Baker, who testified, said:

> The verification mechanism in the New START Treaty does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

That is obvious. The more you get down to a smaller number, the more important cheating is, the more dramatic the effect can be, and the better verification you need.

Senator MCCAIN said this:

> The New START Treaty's permissive approach to verification will result in less transparency and create additional challenges for our ability to monitor Russia's current and future capabilities.

Former CIA Director James Woolsey said:

> New START's verification provisions will provide little or no help in detecting illegal activity at locations the Russians fail to declare, are off-limits to U.S. inspectors, or are underground or otherwise hidden from our satellites.

Senator BOND made a comment that I have quoted before, which is this:

> New START suffers from fundamental verification flaws that no amount of tinkering around the edges can fix. . . . The Select Committee on Intelligence has been looking at this issue closely over the past several months. . . . There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

To conclude, the amendment would require the President to certify that he has reached an agreement with Russia on the nonuse of covers that interfere with type one inspections and accurate warhead counting during those inspections. It doesn't solve the problem of determining the total number of warheads Russia deploys, but it would reduce a method of deception Russia has used in the past.

On telemetry, the amendment would require the President to certify that he has reached a legally binding agreement with Russia that each party is obliged to provide the other full and unimpeded access to its telemetry from all flight tests of strategic missiles, including on new ballistic missile systems deployed by the Russians. They are free now to encrypt those tests. That makes it much harder to get information we have found to be very valuable.

Finally, with regard to the material breach, the amendment contains an understanding that the United States would consider a violation of the deployed warhead limits to be a material breach of the treaty. This would include any type one inspection that revealed the Russians had deployed a number of warheads on any one missile in excess of the number they declared for that missile or that they continued to use covers that deny us the ability to see exactly how many warheads they have on their missiles.

Mr. President, I hope my colleagues would recognize that verification is a problem under the treaty. This is a modest way to try to deal with specific aspects of that verification. I hope my colleagues would be willing to support the amendment.

I reserve the remainder of my time.

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senate votes on the three amendments, as provided under the previous order, those votes occur in the order listed in that agreement.

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

Mr. KYL. Might we also add that the second two votes would be 10-minute votes?

Mr. KERRY. That is a good suggestion. I ask unanimous consent that the second two votes be 10 minutes in length.

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

Mr. KERRY. Mr. President, let me first compliment my colleague from Arizona, who has been dogged, if nothing else, in his advocacy with respect to his points of view regarding this treaty. And while I and other Senators may disagree with a specific amendment he proposes because of its impact as well as, in some cases, because of something else, that doesn't mean the Senator isn't raising valid questions for future discussions and things on which we ought to be focused. I know he spends a lot of time with this. I think all of us have a lot of respect for the ways in which he has already impacted this treaty. I give him credit for that.

This particular amendment is a combination of about four different amendments that have come together. I understand why that happened. I am not complaining about that at all. It is just that there is a lot in it, and therefore there are different reasons one ought to oppose this amendment.

Let me say that, first of all, the New START, I think in most people's judgment, addresses the concerns that have been raised by the Senator from Arizona.

The purpose of warhead inspections is to count the number of warheads on the missile. Neither side is comfortable with the other actually seeing the warheads, looking into it and seeing it. We are not comfortable with them doing that to us, and they are not comfortable with us doing that to them. That is not so much about the counting of the warhead as it is often the issue of failsafe devices or counter-shoot-down devices and other kinds of things that might be in there that we don't necessarily have a right to see and they don't want us to see. So neither side is sort of looking at the actual warhead. The START treaty—the original START treaty, therefore, to deal with that issue, lets the inspected party cover the warheads on the front of the inspected missile, but it allows us to inspect any cover before it is used so that we know what it can and can't conceal. We know what that cover is permitting us to see.

What is more, paragraph 11 of section (2) in the treaty's annex on inspections says explicitly—this is in New START:

> The covers shall not hamper inspectors.

We did not have that previously. That is new to this treaty.

As a result of what we have learned in START, we have learned how to look and how to ask for things more appropriately, and our negotiators worked that into this treaty so as to protect our interests.

In fact, the covers are not allowed to hamper the inspectors in ascertaining that the front section contains a number of reentry vehicles equal to the number of reentry vehicles that were declared for that deployed ICBM or deployed SLBM.

The virtue of the New START treaty is that these declarations and the specific alphanumeric numbers that are going to be attached to the launchers and these warheads allow us enormous certainty in the randomness of our choices of where we go. If the Russians are cheating or somebody is over for one reason or another, we have great capacity to decide where that might be, where we think the best target of opportunity is, and to lock that place down and go in and check it. There are enormous risks of being discovered as a consequence of the way we have set that up.

The treaty already forbids Russia from using covers that interfere with warhead counting. It would create a very dangerous precedent, in my judgment, to require that we negotiate now, before we put the treaty into effect, a side agreement on the very same thing. That might suggest that other New START provisions do not need to be obeyed because there is no side deal reinforcing them. What is the impact of the side deal? Does the side agreement, incidentally, have to be ratified by the Senate before it goes into effect? There are a lot of imponderables here.

With respect to the agreement on telemetry, the requirement for a legally binding agreement with Russia that both parties have to provide telemetry on all flight tests of ICBMs and SLBMs, which is what the Senator is seeking, would also delay the START treaty into force by the same months or years about which we talked.

That argument has been hammered around here the last 7 days adequately.

This delays the treaty. It does not act to increase the security of our country, and it already is in the resolution of ratification in the treaty.

Given what we already understand, we know that the Russians do not like trading in telemetry. I find it hard to believe, therefore, that if we make this treaty condition precedent on the agreement of a side agreement, which we know the Russians hate to do, that is a way of buying into gridlock, deadlock, nothing.

I do not think anybody would suggest—we have already been through this a little bit, incidentally. I and others strongly urged the President and his negotiators to seek as significant telemetry as possible. For a lot of reasons, it did not turn out that it was achievable from their side, but it also did not turn out it was desirable on our side altogether.

Russia is testing new systems such as the Belava SLBM, and the United States may test only existing types of missiles during the next decade. That is a reason why the Russians obviously resist this very significantly.

A lot of people have suggested that our military does not want to share the telemetry on all our flight tests of ICBMs and SLBMs. They are pretty happy the way the treaty is structured now, including the provisions for telemetry which allow us five telemetry exchanges. We have to agree on them, but they are allowed under the treaty. If that were not true, there is no way the Chairman of the Joint Chiefs of Staff Admiral Mullen would have sent the letter he sent to the entire Senate where he stated he wants this treaty ratified now, he wants it implemented now, and he believes, consistent with everything people said within our national security network, that this treaty is both verifiable and enhances our capacity to be able to count and know what the Russians are doing.

The requirement for Russian agreement not to deny telemetry on the new ballistic missile systems it develops during the duration of the treaty is redundant with the previous part about which we just talked.

Again, the amendment requires a side agreement with the Russians. It is the absolute equivalent of amending the treaty itself and, therefore, I would oppose that.

The New START's telemetry exchange regime involves negotiating the beginning of next year, assuming this goes into effect, which missile tests from the past year we are willing to share.

May I ask how much time I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes.

Mr. KERRY. Mr. President, I want to reserve time for the Senator from New Hampshire.

The New START regime requires us to negotiate at the beginning of next year what we are going to share. If we do not offer anything interesting, Russia is not going to offer anything. That is the nature of a negotiation. You have to give to get. This amendment would change that basic principle from a negotiated exchange to a literally ''give me something for next to nothing.'' It does not work. The Russians would have to give us the good stuff while we would give them telemetry from launches that were no different from 30 other tests over the last 20 years.

I have to tell you, that sort of agreement is not going to happen. It is in a fantasy land, and the President would never get that side deal with Russia. The New START treaty would never come into force.

I yield the remainder of my time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I will speak only for about 1 minute and then give the rest of my time to Senator FEINSTEIN who wishes to speak to the question of the covers.

I do not want to speak to the technicalities that have been raised, but I want to make two points in response to Senator KYL's concern about verification.

We should all be concerned about the fact that right now we have no inspectors on the ground. We have no way to verify what is going on in Russia. Anything that delays our ability to get that intelligence back on the ground in Russia adds to the urgency of the situation. That is a very important point.

The other issue he raised was relative to why do we need to do this now. The fact is, as Senator KERRY pointed out, we received a letter from ADM Mike Mullen, the Chairman of the Joint Chiefs, yesterday that said the sooner we ratify the treaty, the better. James Clapper, Director of National Intelligence, said about New START the earlier, the sooner, the better we get this done. There is a lot of reason to believe we need to act on this treaty and need to do it now.

I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New Hampshire.

Senator KYL is a very smart man. This is a major amendment. In my view, it is a deal breaker. It is a poison pill for the entire treaty. It essentially provides real changes in the treaty.

It says the President, prior to the treaty going into effect, must certify that he has achieved certain side agreements, and those side agreements strike directly at some of the heart of the treaty. Therefore, it will effectively, in my view, be unacceptable to the Russians and will destroy the treaty.

The treaty now says you cannot block an inspector's ability to ascertain warheads on a reentry vehicle. That covers the cover issue. This again says that telemetry by a prior agreement—that there be a side agreement on full access to telemetry for all missiles, and then on new missiles, is one-sided. Clearly, this is not going to be acceptable. Then it goes into the type one inspections.

If you are for the treaty, there is only one vote, and it is to vote no. I very much regret this because I respect the Senator. As I see it—and there are things I cannot go into here that I tried to go into yesterday—this is a poison pill amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. KYL. Might I inquire how much time remains on this side?

The PRESIDING OFFICER. There is 7 minutes remaining.

Mr. KYL. Mr. President, let me take 3, 4, 5 of those minutes. I appreciate my colleagues' compliments about important issues being brought up, and I also appreciate their concern that amendments of this significance would cause heartburn for the Russians and might well require them to want to renegotiate aspects of the treaty. I am trying to address that through the mechanism of the side agreement rather than amendment to the treaty or some kind of other more restrictive method. I thought that would be the preferable way to do it.

It is not my intention, as with the previous amendment, to delay things. I do not think it necessarily would. But I do appreciate that on a couple of these items the Russians would not likely want to renegotiate.

I am not so sure that would be the case with regard to the covers, this question of the kind of shroud or cover you put over the missile bus, the top of the missile that has the warheads since the treaty does deal with it, as my colleagues have pointed out, but I do not think it does so in a conclusive way.

The 2005 compliance report issued by the State Department to discuss compliance of the Russian Government with respect to the START I treaty had a couple of longstanding issues. The issue of shrouds was one that they characterized as of long standing. They had a very hard time getting that resolved with the Russians. In the end, there was a particular accommodation reached, but it took forever. And during that time, we did not have the kind of satisfaction we wanted.

We asked how disputes would be dealt with, and we get the same basic answer. That would go to the Bilateral Consultative Commission, the group of Russian and U.S. negotiators who are supposed to work these things out.

What I can see is a kind of repeat of what we had before. They like to cover these things up and that does not seem to me the way to enter into a treaty where we are supposed to be in agreement with our counterparts and yet we have unresolved issues we have to leave to another day to be resolved through a long and probably difficult negotiation process.

Also, my colleague from Massachusetts—these were his words; he was not quoting anyone—thought we had enormous certainty about this. I suggest I do not think the intelligence community would use a phrase such as ''enormous certainty.'' We cannot get into here the degree of percentage they attach to being able to know certain things under this treaty.

Suffice it to say that we are not absolutely sure we can do what needs to be done here, and I do not think characterizing it as ''enormous certainty'' would be an accurate way to do it.

Let me mention with regard to telemetry—first of all, let me correct one thing that is a little bit of misdirection and then agree with my colleagues on something else.

There is a suggestion that we can get telemetry on five missiles, and that is true if the Russians agree. In other words, they have to volunteer to do it. The five missiles they tell us about can be old missiles. They do not have to be new missiles. It is a fact there is nothing in this treaty that requires the Russians or the United States to exchange telemetry on new missile tests; that is to say, tests of missiles currently being developed. There are at least two the Russians are developing right now.

That leads to the second point. I think it is probably true the reason they did not want to agree to this is it would require them to give us very valuable information. Right now, they would not be getting any information from the United States because we are not testing missiles. But I ask, is that an asymmetry that is justified or that justifies a provision that says if you are not modernizing your forces and we are modernizing our forces, it is not fair to have us tell you what our missiles are like?

Under the previous treaty, both sides had to do that, and it gave both sides more confidence. The Russians are developing new missiles. Should we not have some understanding of the capability of those missiles? We are not developing any. It is almost as if the United States would have to be modernizing its forces too in order to be able to justify a provision that said we had to exchange telemetry.

Maybe the United States ought to get on with the modernization of our missile force so we can then go back to the Russians and say: You are modernizing, we are modernizing, now how about the exchange. To me that is not an argument to require the Russians not to provide us information. And in fact, when the shoe is on the other foot, that argument falls by the wayside, and we end up putting limitations in the treaty.

Here is an example. The Russians are not developing and do not seem to have any intention of developing something called conventional Prompt Global Strike, which is a fancy way of saying: Put a conventional warhead on top of an ICBM so you do not have to send a nuclear warhead halfway around the world to destroy a target.

We can see in today's conflict that we are not going to be engaging in a multiple nuclear exchange with another country but might well have a need based upon intelligence that does not have a very long shelf life that we want to send a conventional warhead to a specific target and that is something we would like to develop but the Russians are not interested in doing that. So did we say to the Russians: So because you are not doing it and we are, therefore, we are not going to have any limitation on this? No. We agreed, in fact, to a very important limitation. Any missiles we use in that regard have to be counted as if there were a nuclear warhead on top of it. So there is a 700-vehicle limit. That is all the number of missiles we can have. And yet any missiles that we put a conventional warhead on that have this ICBM range have to be counted against that limit.

Well, the Russians aren't doing it, so why did we have to agree to something they are not doing? That is asymmetrical. That is not parity.

So it is okay for the Russians to say: Hey, if we are doing something you are not doing, we are not going to be bound by anything in the treaty on it. But by the way, if you are doing something we are not doing, we are going to hold you accountable and bind you with a very important limitation in the treaty.

You see, the argument doesn't hold water. Russia and the United States are not acting exactly the same with regard to our weapons. So to argue that anything we are doing differently from the other shouldn't count in the treaty is suspicious. And, in any event, it turns out we don't make that argument.

The PRESIDING OFFICER. The Senator's time on this amendment has expired. The Senator has time remaining on the previous amendment.

Mr. KYL. Let me finish my sentence on this.

In any event, what is good for the goose is good for the gander. If we put a limitation on the United States on something they are not developing, then it is only fair to put a limitation on them with regard to something we are not developing.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, do we have any time remaining?

The PRESIDING OFFICER. There is 1 minute 40 seconds remaining.

Mr. KERRY. I yield all that time to the Senator from Michigan, the chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my good friend from Massachusetts.

There has been reference made to a side agreement which was entered into at the time of START I. There is a major difference between what happened then and what is being proposed by Senator KYL now.

That side agreement, first of all, was in front of the Senate but there was no effort at that time to do what Senator KYL's amendment does, which is to say prior to the entry into force of that treaty the President shall certify to the Senate that there was a legally binding side agreement. That was not part of START I, and it would seem to me would absolutely derail this New START agreement.

Second, that was a political agreement, that side agreement that was entered into, which would last as long as the Presidents of both countries were in office but would not necessarily last beyond that because it was not a legally binding agreement in that sense.

So there are two major differences between what happened at the time of START I and what is being proposed here by Senator KYL. I hope we could defeat the Kyl amendment No. 4860.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, if any time remains, we yield it back.

The PRESIDING OFFICER. Time is yielded back.

Mr. KERRY. What is the parliamentary situation, Mr. President?

The PRESIDING OFFICER. There is still time remaining on the Wicker amendment, and Kyl 4860.

Mr. KYL. Mr. President, I wish to speak briefly to that now, in direct response to my colleague from Michigan.

Mr. KERRY. Mr. President, before he does that, do we have time remaining on either of those amendments?

The PRESIDING OFFICER. The Senator from Massachusetts has time remaining on both amendments.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let me quote from the START I treaty, Text of Resolution of Advice and Consent to Ratification as Approved by the Senate:

> The Senate's advice and consent to the ratification of the START Treaty is subject to the following conditions, which shall be binding upon the President: Legal and Political Obligations of U.S.S.R.: That the legal and political obligations of the Union of Soviet Socialist Republics reflected in the four related separate agreements, seven legally binding letters, four areas of correspondence, two politically binding declarations, thirteen joint statements . . .

And so on. The two politically binding declarations are precisely the reference to the limitation of the SLCM numbers for both countries. I mean there is a dispute about whether it is legally binding in the same sense that the treaty itself is, but the heading of this is Legal and Political Obligations of the U.S.S.R., and it goes on to talk about . . .

> The United States shall regard actions inconsistent with these legal obligations as equivalent under international law to actions inconsistent with the START Treaty.

And so on and so on. We believe these were binding and should be. It is no argument, however, to say that if somebody else didn't see it that way, therefore, what we are asking for here is not

a binding agreement. Whether you call it binding legally or binding politically, in any event, I wish to see it done, because there is no limitation on the SLCMs the Russians are planning to develop, and the submarine that is under development to carry them, and they could have a strategic value as well as a tactical value. They were a subject of the previous START I agreement and I think they should be a subject of this agreement as well.

Let me summarize. The first amendment our colleagues will be voting on is, I believe, the Wicker amendment, and then the second amendment is the amendment which would provide a side agreement for a limitation on the number of Russian SLCMs—the submarine launch cruise missiles—and the third vote will be on the Kyl amendment relative to verification relating to covers on the ICBMs and telemetry on ICBM tests.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. KERRY. How much times remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes on the Kyl amendment and 5 minutes on the Wicker amendment.

Mr. KERRY. Mr. President, is Senator WICKER here?

I wonder, Senator KYL, if we can yield back time. I know colleagues are waiting to vote.

Mr. President, by unanimous consent we yield back all time on both sides and go to regular order.

The PRESIDING OFFICER. If all time is yielded back, under the previous order, the question is on agreeing to amendment No. 4895 offered by the Senator from Mississippi, Mr. WICKER.

Mr. KERRY. 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 295 Ex.]

YEAS—34

Alexander	Chambliss	Crapo
Barrasso	Coburn	DeMint
Brown (MA)	Cochran	Ensign
Bunning	Collins	Enzi
Burr	Cornyn	Graham
Grassley	Kyl	Sessions
Hatch	LeMieux	Snowe
Hutchison	McCain	Thune
Inhofe	McConnell	Vitter
Isakson	Murkowski	Wicker
Johanns	Risch	
Kirk	Roberts	

NAYS—59

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (OH)	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shaheen
Casey	Leahy	Specter
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lincoln	Udall (CO)
Dodd	Lugar	Udall (NM)
Dorgan	Manchin	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4895) was rejected.

VOTE ON AMENDMENT NO. 4860

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 4860 offered by the Senator from Arizona.

Mr. INOUYE. 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 Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 296 Ex.]

YEAS—31

Barrasso	Ensign	McCain
Brown (MA)	Enzi	McConnell
Bunning	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Snowe
Cochran	Inhofe	Thune
Collins	Johanns	Vitter
Cornyn	Kirk	Wicker
Crapo	Kyl	
DeMint	LeMieux	

NAYS—62

Akaka	Brown (OH)	Corker
Alexander	Cantwell	Dodd
Baucus	Cardin	Dorgan
Bennet	Carper	Durbin
Bennett	Casey	Feingold
Bingaman	Conrad	Feinstein
Boxer	Coons	Franken
Gillibrand	Lincoln	Rockefeller
Hagan	Lugar	Sanders
Harkin	Manchin	Schumer
Inouye	McCaskill	Shaheen
Isakson	Menendez	Specter
Johnson	Merkley	Stabenow
Kerry	Mikulski	Tester
Klobuchar	Murkowski	Udall (CO)
Kohl	Murray	Udall (NM)
Landrieu	Nelson (NE)	Voinovich
Lautenberg	Nelson (FL)	Warner
Leahy	Pryor	Webb
Levin	Reed	Whitehouse
Lieberman	Reid	

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4860) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we are going to have one more vote tonight. Senators KERRY, LUGAR, KYL, and others are working on how we are going to work tomorrow morning. They will work this evening. Hopefully, we can come in at 9 in the morning with, hopefully, an hour of debate on an amendment, and then we will find out where we are after that. The reason I asked for the attention of the Senate was to announce that.

However, I ask unanimous consent that Senator LEVIN, chairman of the Armed Services Committee, and the ranking member, Senator MCCAIN, each be recognized for 2 minutes to explain something they are working on on the Defense authorization bill.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I think all of us have an interest in the Defense authorization bill. Senator MCCAIN and I have been working on this bill with members of the committee for about a year. This is a bill that has a lot of provisions critically important to our troops.

To give a few examples, it authorizes health care coverage for military children, impact aid to local civilian schools, so-called CERP authority, which is the commander's emergency response program, and transfer of defense articles to the Afghan Army. It is about 800 pages. We have removed from this bill what we thought were the controversial items so that we could get it passed. We don't have the time to go through them, but that was our intent. We missed one controversial item which came over from the House having to do with Guam funding. We have now reached an agreement that we would remove that provision from the bill. That is a removal. But we can't add any controversial items to this bill; it will be objected to.

The only way we can do this for the troops, as we have done for 45 years, is if we proceed with a unanimous consent agreement tonight. We haven't

yet gotten there. I plead with our colleagues to let us get to this unanimous consent agreement tonight. It is the only time we can do it. The House will be in tomorrow. They could take it up tomorrow, if we pass it tonight. That is the status.

Senator MCCAIN, I know, will speak on his support. But this is a plea from the two of us who have worked so hard with Members and our staffs on a critically important bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. The only thing I would add to the comments of Senator LEVIN is that there are policy provisions regarding training and equipment and readiness that cannot be just done by money. These are important policy decisions, important authorizations, including a pay raise—not for us. I urge my colleagues not to object to this Defense Authorization Act. I argue it is critical to sustaining this Nation's security.

Mr. LEVIN. Mr. President, we will offer this later tonight. We are not offering it at this time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 4893 offered by the Senator from Arizona, Mr. KYL.

Mr. KERRY. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri, (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 63, as follows:

[Rollcall Vote No. 297 Ex.]

YEAS—30

Barrasso	Ensign	LeMieux
Brown (MA)	Enzi	McCain
Bunning	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cochran	Inhofe	Snowe
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker

NAYS—63

Akaka	Cantwell	Dodd
Alexander	Cardin	Dorgan
Baucus	Carper	Durbin
Bennet	Casey	Feingold
Bennett	Collins	Feinstein
Bingaman	Conrad	Franken
Boxer	Coons	Gillibrand
Brown (OH)	Corker	Hagan
Harkin	Lugar	Rockefeller
Inouye	Manchin	Sanders
Isakson	McCaskill	Schumer
Johnson	Menendez	Shaheen
Kerry	Merkley	Specter
Klobuchar	Mikulski	Stabenow
Kohl	Murkowski	Tester
Landrieu	Murray	Udall (CO)
Lautenberg	Nelson (NE)	Udall (NM)
Leahy	Nelson (FL)	Voinovich
Levin	Pryor	Warner
Lieberman	Reed	Webb
Lincoln	Reid	Whitehouse

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4893) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me say to colleagues how we are going to proceed. With the consent of the Senator from Arizona and Senator LUGAR, we are going to accept two amendments, I believe. One of them we are checking with the White House and making certain we are all in sync on it. But assuming we are, we will be able to have Senator LEMIEUX of Florida speak for a few minutes on his amendment. In addition, there is Senator KYL's amendment, which we will accept.

Subsequent to that, I believe Senator THUNE wants to raise an issue regarding an amendment. We will do that. Then I think we will probably be at a point where we will have an opportunity if people want to talk on the treaty, or conceivably even on something else, I imagine there may be a moment there, but I do not want to speak for the leadership on that yet until we have cleared it.

Mr. President, I ask unanimous consent—the Senator from Ohio has been trying to get the floor for most of the day, and because he wanted to give us the opportunity to move on the amendments, he has been very patient. I ask unanimous consent that he be granted 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I ask the Senator, will you go ahead and handle the unanimous consent agreement on the two amendments. I do not have to be here for that.

Mr. KERRY. Mr. President, I will do that and guarantee the Senator that his amendment will be adopted. And I thank him. I want to thank Senator KYL. He has actually—I know we have all been struggling here, but the Senator has been extremely helpful in processing a lot of amendments this evening, and I want to thank him for his good-faith efforts in doing that.

Mr. President, I yield to the Senator from Ohio.

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

The Senator from Ohio.

Mr. BROWN of Ohio. Thank you, Mr. President.

I appreciate the generosity of the senior Senator from Massachusetts and especially his leadership on one of the most important debates in the 4 years I have been in the Senate. I thank Senator KERRY for that.

OMNIBUS TRADE ACT/TAA AND HCTC

Mr. President, I hold in my hand 500 pieces of paper, 500 testimonials from retirees who lost their pensions and health care during the GM bankruptcy. These are some of the 50,000 Americans who will be hurt if we do not pass an extension of the health coverage tax credit this week before the year is out.

This stack of paper here does not represent Delta retirees and it does not represent other retirees—thousands of others—who are in the same boat as the Delphi/GM retirees.

Their pensions have been cut. Their employee-sponsored health care has been eliminated. If we do not pass the omnibus trade bill—which includes GSP, trade adjustment, the Andean trade agreement, and the health care tax credit, and some miscellaneous tariffs—if we do not pass this, H.R. 6517, they will take in another economic blow. The blood from this one will be on our hands.

We must pass the omnibus trade bill before this Congress ends. I want to share a handful of letters. I know the Senator from Massachusetts yielded for 5 minutes, so I will do this quickly.

Mary Ann from Warren, OH, writes that she lost 40 percent of her pension, all her health care, and all her life insurance earned from GM/Delphi. Here is what she said:

> My husband is self employed and he is on my healthcare. He suffers terribly with chronic pain due to degenerative disc disease. He forces himself to work at least part time but it's a struggle. . . . I have a cerebral condition recently diagnosed. I spent a week in the hospital early this year and am still paying on that too. A 75 percent hike in our healthcare premiums—

And that is what will happen if we do not renew this, which will help these 500 and another 50,000—

> while we try to pay these medical balances on a reduced pension would force us and many others into a downward spiral of existence. Those who we entrust to represent us must realize that our story could be theirs if life situations were different. When do we start treating others how we ourselves want to be treated?

Here are others.

Dan from Columbus, IN, writes:

> Dear Senator Brown—I am a retired Delta Air Line pilot. During my retirement, Delta took my retirement money that I had spent a career of time accumulating and left me out in the cold. The health care tax credit stepped in and helped by giving our family some insurance premium help. Now this is being destroyed too.

David from Atlanta, GA:

It is very important that the health care tax credit . . . be continued. After losing the pension income and insurance benefits I was promised when I retired from Delta Airlines, I have made significant adjustments to try to compensate for the losses.

Still, after cutting back, the cost of living, skyrocketing insurance premiums, and 2 years of trying to sell my house at a substantial reduction of price while competing with foreclosures, the finances of my friends and me continued to erode.

Gary from Arrowhead, CA: Since Delta Airlines eliminated my pension and health coverage, I looked forward to a Kaiser Permanente HCTC qualified health insurance policy starting January 1. Without this HCTC passage, my premiums will be $2,600 a month.

These go on and on. The omnibus trade bill has received unanimous approval from every Democratic Member of this body. It is supported by the U.S. Chamber of Commerce, the National Retail Federation, the AFL–CIO. It is my understanding most Republicans here support it. There are just a few blocking the passage of it.

On Friday, Senator SESSIONS objected to a request Senator CASEY and I made to pass the trade act. I understand his objection. I believe it can be worked through. Senator SESSIONS said he supports the rest of the package. I hope this obstruction doesn't interfere with the need to move on this omnibus trade package. These 500 letters, if each of my colleagues would read two or three of them, I think they would see how important it is we pass the Omnibus Trade Act. It is about the trade adjustment assistance language. It is about 50,000 people who will not be able to afford their health insurance come January 1. Happy New Year to them. It also will help us with Colombia and other countries around the world in our trade policies. This makes so much sense.

Tomorrow, Senator CASEY and I and perhaps some others will ask for a UC. I hope my colleagues can see fit to move forward on this. It is supported by business groups, by labor groups, by the majority of people in this body. I am hopeful we can bring in the few people who still disagree and make this work for our country.

I yield the floor. I thank Senator KERRY for his indulgence.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I have had the opportunity to work out with the Senator from Massachusetts an amendment to the resolution, which I will be offering in a second.

To my colleagues, what this does—we had this discussion the other day on the treaty. This is an amendment to the resolution that would require, within a year's time of ratification, that the President of the United States certify to the Senate that the United States will seek to initiate with the Russian Federation negotiations on the disparity between nonstrategic or tactical nuclear weapons and to make sure we secure those weapons and reduce the number of tactical nuclear weapons in a verifiable manner.

Remember, the Russians have a 10-to-1 ratio of tactical nuclear weapons over us—3,000 to 300—not talked about in this treaty, an important issue. This requires that the President will certify within a year's time that the parties are going to sit down and have a negotiation about the disparity, about verification, and about securing these weapons. It has been agreed to by all parties.

With that, amendment No. 4908 has been cleared on both sides. I now ask that the amendment, as modified by the changes at the desk, be offered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object, we just have to jump through a few hoops over here. We will not object ultimately, but if I could ask the Senator if we could just wait a little longer, I would object at this time but not ultimately. We need to get this cleared and put all the next steps together into one effort, if we can. It doesn't mean we can't talk about some of the other issues, if you want to, while we are waiting for that to be ready. It might be better to just wait until we have the agreement.

So, in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Florida has the floor.

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

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

Mr. KERRY. Mr. President, I know the Senator from Florida wants to speak on this amendment. I ask unanimous consent that the following two amendments be considered and agreed to: Senator KYL No. 4864 and LEMIEUX No. 4908, as modified.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 4864 and 4908, as modified), were agreed to, as follows:

AMENDMENT NO. 4864

(Purpose: To require a certification that the President intends to modernize the triad of strategic nuclear delivery vehicles)

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

(11) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and

(B) maintain the United States rocket motor industrial base.

AMENDMENT NO. 4908, AS MODIFIED

(Purpose: To require negotiations to address the disparity between tactical nuclear weapons stockpiles)

At the end of subsection (a) of the resolution of advice and consent to the New START Treaty, add the following:

(11) TACTICAL NUCLEAR WEAPONS.—(A) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the United States will seek to initiate, following consultation with NATO allies but not later than one year after the entry into force of the New START Treaty, negotiations with the Russian Federation on an agreement to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Russian Federation and of the United States and to secure and reduce tactical nuclear weapons in a verifiable manner; and

(ii) it is the policy of the United States that such negotiations shall not include defensive missile systems.

(B) Not later than one year after the entry into force of the New START Treaty, and annually thereafter for the duration of the New START Treaty or until the conclusion of an agreement pursuant to subparagraph (A), the President shall submit to the Committees on Foreign Relations and Armed Services of the Senate a report—

(i) detailing the steps taken to conclude the agreement cited in subparagraph (A); and

(ii) analyzing the reasons why such an agreement has not yet been concluded.

(C) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(i) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(ii) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

Strike paragraph (11) of subsection (c) of the resolution of advice and consent to the New START Treaty.

Mr. KERRY. Mr. President, does the Senator wish to speak?

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I thank the Senator from Massachusetts for working on this with us. I think this is an important improvement that will require that the United States seek to initiate negotiations with the Russian Federation within a year's period of time. I thank my colleague from Massachusetts, as well as other colleagues who were willing to make this happen as part of the ratification.

I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator. This is a constructive amendment. We all agree that we need to reduce tactical nuclear weapons. Everybody who testified to us reiterated the importance of that being the next step in terms of our relationship and increased stability. NATO allies also said it was essential to proceed to that. The Senator's amendment helps us to make it clear that is the direction in

which we need to go. I thank him for his efforts.

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

Mr. THUNE. Mr. President, I ask unanimous consent that amended No. 4920 be made pending.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, I do object. I want to say to the Senator that I am delighted to have a discussion with him about this particular issue. But I think given the efforts we have made thus far to deal with a fixed set of amendments has been affected somewhat by some of those amendments that were filed late, and also not germane, requiring colleagues at the last minute to consider a lot of issues on the floor that are not pertaining directly to the treaty itself.

The subject the Senator wants to bring up and talk about, which is Russian cooperation on Iran, is absolutely essential to us as a matter of foreign policy. I want to join with the Senator in emphasizing that. I look forward to hearing his comments about it. I think we can have an important colloquy that could add to the record of our discussions with respect to this treaty without negatively impacting the direction we are moving in at this point.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, if I might, given that, speak to the amendment. I regret that the amendment can't be voted on. The process has been fairly open. A number of amendments have been considered. This amendment was filed sometime this afternoon. It deals with an important subject, which is germane to the debate that we are having with regard to the New START treaty.

One of the predicates for improving the START treaty is the so-called reset of our relationship with Russia. Of course, the President, as recently as November 18, 2010, made a statement, which is in this amendment:

''The New START Treaty is also a cornerstone of our relations with Russia'' for the reason that ''Russia has been fundamental to our efforts to put strong sanctions in place to put pressure on Iran to deal with its nuclear program.'' Accordingly, the advice and consent of the Senate to ratification of the New START Treaty is conditioned on the expectation that the Russian Federation will cooperate fully with United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability.

What this amendment does is to provide some assurance that all those intentions and statements actually come to pass. It would require the President to certify to the Senate the following:

Prior to entry into force of the New START Treaty, 1, the President shall certify to the Senate that (i) the Russian Federation is in full compliance with all United Nations Security Council Resolutions relating to Iran; (ii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will (I) transfer to Iran the S–300 air defense system or other advanced weapons systems or any parts thereof; or (II) transfer such items to a third party which will in turn transfer such items to Iran; (iii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran goods, services, or technology that contribute to the advancement of the nuclear or missile programs of the Government of Iran; and (iv) the Government of the Russian Federation has assured the United States that it will support efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program.

That would be a commitment, a certification, that would be issued prior to the entry in force of the treaty by the President each year, and on December 31 of each subsequent year a similar certification would be issued by the President. In fact, if the President fails to certify, then it would require that he consult with the Senate and submit a report on whether adherence to the New START treaty remains in the U.S. national security interest.

I say this because I think there is a direct connection and correlation between this treaty and the efforts of the Russians that we assume the Russians are going to commit to in terms of putting pressure on Iran regarding its nuclear program and not doing things that would put in jeopardy the security of the region.

I have to say, obviously, this has a big impact on our great ally, Israel, as well as the whole region. It would be very destabilizing if the Iranians have a nuclear weapon. So I think the effort made by the administration to ''reset relations with Russia,'' bears directly on this treaty. As I said, it was stated clearly by the President as recently as November 18, where he recognized that important relationship. I simply say this amendment, I don't think, is anything that anybody would not agree with. All it does is require not just a statement that this is going to be part of our ongoing relationship with Russia, but it provides an assurance, a certification that the administration would make to the Senate before the treaty would enter into force and each year subsequent to that with those basic issues.

The issues are fairly straightforward. It simply requires a condition that the Russian Federation is in full compliance with all U.N. Security Council resolutions relating to Iran and the government of the Russian Federation assures the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran the S–300 air defense system or other advanced weapons systems or any parts thereof or transfer such items to a third party, which will in turn transfer such items to Iran.

While the S–300—for the time being, Russia has refrained from doing that. There are concerns and reports that Russia has recently provided Tehran with a new radar system allegedly through third party mediators from Venezuela and Belarus. So the concern about that coming into Iran through some third party is also something that I think is of great concern to America's national security interests as well as those of our allies.

Mr. President, the amendment, again, is very straightforward. It requires a certification before the entry into force of the treaty, and then each year thereafter about those basic conditions that the Russians be in compliance with U.N. Security Council resolutions, that they would not try to get the S–300 to the Iranians, directly or indirectly, and they would continue putting pressure on the Iranians with respect to their nuclear program.

We know too that the nuclear reactor in Bashir is now producing plutonium. Russia has fueled a nuclear reactor there that is now producing plutonium in Iran. That ought to be of great concern to everybody here as we pass judgment on this treaty, which is obviously important to our relationship with Russia, but also bears on the relationship we have with other countries around the world.

I think anybody in the foreign policy community that you talk to today, when you ask what is the most dangerous threats the United States and its allies face around the world today, Iran and nuclear weapons in the hands of Iran top that list.

So the efforts that we make to persuade the Russians to put pressure on the Iranians and make sure there isn't anything going on there that would destabilize or put in peril America's national security interest is certainly an objective we have.

This would require the President certify that those things are taking place rather than relying on the statements and good intentions of the Russians. I wish, again, that I could get this amendment pending and get it voted on. I think it is important to have the Senate on record with regard to this issue. I regret that the amendment has been objected to.

I appreciate the opportunity to at least raise the issue, and I certainly hope it is something that the administration and our leaders in the Senate and the entire military establishment of this country pays close attention to in the days ahead. This issue will not go away. I think it bears definitely on the treaty.

With that, I will conclude my remarks and say I wish we had an opportunity to get a vote on it.

I yield the floor.

Mr. KERRY. Mr. President, in, I think, 7 days, I have not made an objection to an amendment that we tried to take up. I am sensitive to that because we, obviously, want to provide as much opportunity to go into these issues as is possible. I say to my friend from South Dakota that I am happy to stay here with him and do as much as we could do to impress on anybody the importance of the issue he is raising.

But if we stayed here and went through the process of a vote, which would conceivably take us a lot longer in terms of the other amendments we have to finish tomorrow morning, as well as keep the Senate in even later, only the votes—I think we had only one motion to table. Almost every vote has been straight up or down. The votes have been 60 to 30, or 60-something to 28, or something like that. I think the reason is that there is a fundamental flaw in the approach of this particular amendment and the others we have had because they seek to prevent the treaty from going into force.

The language says ''prior to the entry into force of the New START Treaty,'' the President has to do a series of things. Some of those may read in a fairly straightforward and literal way, but they are not necessarily what can be done immediately or are even subject to our control, in which case we wind up with a treaty that we have actually partially ratified because it cannot go into force, and it may never go into force, depending on what happens with some of those things that are out of our control.

There are a lot of reports requested on one thing or another. I think there is a more effective way to go at this, personally, that doesn't wind up with a negative impact on the treaty, where we are veering from our military and national intelligence leaders who would like to see this put into effect as rapidly as possible. The effect of this is not to let that happen as rapidly as possible.

The Senator is 100 percent correct about our concern about Iran. We need Russian cooperation in order to ever have a chance of enforcing the sanctions that have been put in place, as well as finding the other tiers of cooperation that are going to be critical as we go forward, absent Iranian shifts in policy. The fact is, what has happened through Russian cooperation right now is that the most significant sanctions we have been able to put in place to date have been put in place. They were largely achieved because of the relationship President Obama has achieved with President Medvedev and the reset button and the sense that we are coming together, not going apart.

It is easy for us in the Senate to stand here and say we have to require this, we have to require that. A lot of these things I have found increasingly—particularly in this time I have been chairman of this committee—a lot of the things we sometimes do with good intention in the Senate actually very significantly complicate the life and work of our diplomats who spend as much time trying to meet some kind of certification as they do doing the diplomacy they are meant to do.

I am happy to work with the Senator as chairman of this committee. We will have hearings early next year on this topic of Iran and where we stand with respect to that nuclear program. We will look at this issue of Russian cooperation, and we will look at it hopefully within the context of a START treaty that is going to be ratified by the Duma and implemented and that can only strengthen the resolve of both our countries to focus on the challenges of Iran.

I thank my colleague. I have been in that position before when we have not been able to get an amendment in.

I might add, the amendment was filed a day and a half after cloture was filed. I said to JON KYL very clearly that we were going to try to be as flexible as we could. That flexibility needed to be mostly focused on those amendments that directly affect the treaty or are to the treaty in its most direct sense. If we raised a point of order, this would be an amendment that would be found to be not germane because it is outside those direct treaty issues. With that in mind, I have taken the position I have taken. But I look forward to working with my colleague, if we can, as we go forward from here.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I say to my friend from Massachusetts that if he would allow me to vote on the amendment, I would try to break that 35-vote threshold that we have seen, to blow through that cap.

I appreciate the fact that the Senator shares the concerns I have about Iran. All I would say is I think what this provides is an additional safeguard as we move into this process and we have this treaty and a clearly established connection between what is a great threat, a regional threat and, I would argue, a threat beyond the region, certainly to our national security as well, the Iranian threat, and the relationship we have with Russia and this treaty and the good-faith effort that we are making through this treaty with the Russians to reset, that this would provide an additional level of assurance that they are, in fact, cooperating and that they are following through on the commitments they are making to the administration and to us as we debate this treaty.

Again, I will not belabor the point. The point has been made. I do think this is a germane amendment. I take issue with the chairman's contention that it is not. But at this particular late hour and with his objection to this, I know I am probably not going to have an opportunity to have this amendment voted on, but I hope the issue continues to stay front and center, in front of this body and before the Foreign Relations Committee and the Armed Services Committee on which I serve.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I say to the Senator, let's commit to work to make sure that happens. I certainly will do that on my part. I look forward to those hearings next year. Perhaps the Senator would even want to find a way to take part in them.

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

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

Mr. KERRY. Mr. President, Senator REID asked me a few minutes ago if I would communicate where we are with respect to the START treaty, and I will do so.

As it stands now, we have two amendments that remain. One is an amendment by Senator KYL on modernization, which I believe is the intention, though not yet locked in, of the majority leader to try to take up around 9 o'clock in the morning. We expect to spend somewhere in the vicinity of an hour on it, maybe a little bit longer than that, to accommodate the speakers for Senator KYL. Then there will be one other amendment after that on missile defense, I believe an amendment that will be offered by Senator CORKER and Senator LIEBERMAN together. That amendment will be the last barrier remaining before we can get to the final vote on the treaty itself.

It would be my hope, depending on the negotiations going on and discussions with respect to the 9/11 first responders—those are discussions taking place now—depending on that, we will have a better sense of when that final vote will be able to take place. I know a lot of colleagues are trying to figure that out in the context of flights, family, and other things. Our hope is that will become clearer in the next minutes, hours, moments of the Senate.

That is the lay of the land. I know the chairman of the Armed Services Committee and the ranking member have made their request to the Senate regarding the Defense authorization bill.

Our hope is that tomorrow morning we can move rapidly through the remaining two amendments. It may even be possible for us to accept the amendment on the missile defense. We are working on that language now. If that happens, obviously it will clear the possibilities of a final vote to an earlier hour, again dependent on this discussion regarding the 9/11 first responders.

That is the state of play.

Mr. COCHRAN. Mr. President, I am pleased to support the approval by the Senate of the New START treaty.

On December 16, I joined Senators INOUYE, FEINSTEIN and ALEXANDER in a letter to President Obama to express my support for ratification of the treaty and funding for the modernization of our nuclear weapons arsenal. At the time, I was concerned that this might not be taken seriously as a long-term commitment. The President has responded to our request and assured me that nuclear modernization is a priority for his administration and that

he will request funding for these programs and capabilities as long as he is in office. I appreciate his commitment to this long-term investment.

The treaty before us is not perfect. Many of our colleagues have brought forth ideas and offered amendments that will help address concerns about the treaty. I share concerns about missile defense, tactical nuclear weapons, and limits on delivery vehicles, but I cannot deny the potential national security consequences of not ratifying the New START treaty.

After listening carefully to national security experts and the debate on the Senate floor, I have been convinced that failure to ratify this treaty would diminish cooperation between our two countries on several fronts, including nuclear proliferation, and limit our understanding of Russian capabilities. Furthermore, failure to ratify this treaty would cause further delays in getting our inspectors back to Russia after a 1-year absence.

While I am dissatisfied with the way this treaty has been considered by the Senate in a lameduck session, I take our responsibility to provide advice and consent to international treaties very seriously; and I do not think that the politics of the moment should trump our national security priorities. I am cognizant of the fact that the New START treaty has received unanimous endorsement by both our country's diplomatic and military leadership, and it would be an unusual response for the Senate not to respect and consider their views on how best to support our national security interests.

I agree with them on the merits of this treaty, and I will support ratification.

Mr. AKAKA. Mr. President, I rise today and proudly stand among the long, bipartisan list of Senators, statesmen, and military leaders in support of the New Strategic Arms Reduction Treaty. The New START treaty is critical to our Nation's security because it places limits on U.S. and Russian nuclear arsenals, supports an improving bilateral relationship with Russia, and advances international nuclear nonproliferation efforts.

Over the last three decades, both the United States and Russia have benefited greatly from the bilateral reduction of nuclear weapons. Through the efforts of Presidents Ronald Reagan and George H.W. Bush, the two superpowers embarked on gradual nuclear disarmament, agreeing to reduce the number of their strategic warheads and deployed delivery vehicles through the negotiation and signing of the first START treaty. Under President Obama's leadership, we are now considering the New START treaty, which, when ratified, will reduce these numbers even more in both countries.

The ratification of the New START treaty is vital to our national security.

First, this treaty helps to decrease the threat of nuclear destruction and strategic miscalculation by requiring the reduction of strategic offensive arms such as warheads and launchers in Russia and the U.S. Supporting this effort is a strong verification regime that includes on-site inspections. Without this treaty, our inspectors do not have the ability to monitor Russian activities. We have not had access to the Russian nuclear stockpile for over a year. Our ability to ''trust, but verify'' must be restored.

Second, this treaty reinforces our important relationship with Russia. It advances our Nation's capacity to build durable, multilateral cooperation to confront international security risks from countries like Iran and North Korea. In addition, a strong relationship with Russia helps to keep available the supply chains that deliver equipment to the brave Americans serving in Afghanistan.

Finally, this treaty strengthens our nonproliferation efforts around the world. By ratifying the New START treaty and taking the focus off of strategic weapons, the United States and Russia can increase their efforts on tactical nuclear weapons and proliferation. The risks associated with nuclear proliferation are particularly serious and include acts of nuclear terrorism against the United States and its allies and the destabilizing effects of new nuclear arms races.

For many years I have been concerned about these risks. During the 111th Congress, I have introduced bills that would decrease the spread of potentially dangerous nuclear technologies around the world and implement key nuclear nonproliferation recommendations offered by the Commission on the Prevention of the Proliferation of Weapons of Mass Destruction and Terrorism. I have also called for more oversight of the International Atomic Energy Agency's Technical Cooperation Program and its proliferation vulnerabilities. Ratifying the New START treaty will reinforce these and many other nuclear nonproliferation efforts.

I urge my colleagues to strengthen national security by ratifying the New START treaty.

Mr. UDALL of New Mexico. Mr. President, I rise today to echo the call of the Senators and Presidents who have furthered the cause of peace. I rise to continue this body's longstanding work to reduce the threat that nuclear weapons still pose to our Nation and world.

Much has changed since the groundbreaking arms treaties of the 1990s. The cold war has ended, and with its end the balance of power changed greatly. But the threat of nuclear war has not entirely gone away.

Over the last decade, we have seen the U.S. attacked on 9–11. And we learned about al-Qaida's ambition to acquire a weapon of mass destruction.

One mishap or one intentional attack is all that is needed to throw our entire global society into a tailspin.

Thanks to the work done through Nunn-Lugar, the U.S. has been involved in efforts since the end of the cold war to prevent nuclear materials from falling into the wrong hands.

But today, with our resources spread thin due to two wars overseas and the threat from failed states and unstable regimes in possession of nuclear weapons the risk of nuclear proliferation has steadily increased.

That is why the goal articulated by President Kennedy, built upon by President Reagan, and further advanced by President Obama is more important than ever. Moving toward a world with zero nuclear weapons is a move toward a safer and more peaceful future.

Through committed negotiations on the New START treaty, the U.S. and Russia have renewed their commitments to this important goal. Passing New START would be another momentous step toward that more peaceful world.

But, as we have all seen in recent days, and over the course of the year since the U.S. and Russia reached this historic agreement, some in this Chamber are playing partisan politics with an issue that has the potential to impact every person in America and across the world.

This political posturing is shortsighted at best. And it is dangerous at worst. The threat of nuclear weapons is not a partisan issue. It is an American issue. And, more importantly, a human issue.

When START One was ratified in 1991, it was ratified not with just a simple majority but with 93 Members of the Senate voting in favor of the legislation.

Similarly, START Two, ratified in 1993, had the support of 87 Members of the Senate.

The New START treaty deserves similar support from this body. Obstruction of this treaty does not strengthen our country. It reduces our security. And arguments to the contrary go against decades of bipartisan work to reduce the threat of nuclear annihilation.

Those opposed to ratification say this treaty will diminish our national security. They argue that we cannot rely on a smaller nuclear arsenal to effectively deter an opponent.

These concerns have been overhyped and hyperpoliticized. And they fall flat in light of the scientific evidence provided by our scientists and engineers at the National Labs.

Along with Senator BINGAMAN, I helped lead a visit to New Mexico's National Labs while the Senate Foreign Relations Committee was debating ratification. The scientists and engineers at the Labs briefed the delegation, which also included Senators KYL, CORKER, RISCH, and THUNE, on issues pertinent to this debate.

After participating in these briefings, I am confident of two things. One, that the United States can assure our allies

that our nuclear arsenal remains an effective deterrent. And two, that our scientists and engineers will be able to verify that Russia is abiding by its end of the bargain.

New Mexico will be at the forefront of verification measures because the Los Alamos and Sandia National Labs have the requisite professional expertise to aid the monitoring of Russian forces.

I have been continually amazed by the work of our National Labs in New Mexico. The Los Alamos and Sandia National Labs, and the hardworking men and women who serve there, are truly a treasure of the Nation.

Unfortunately, some on the other side of the aisle have derided the labs as ''decrepit and dangerous.'' This poorly imagined and strikingly inaccurate description couldn't be further from the truth.

Los Alamos National Labs Director Michael Anastasio, Sandia National Labs Director Paul Hommert, and Lawrence Livermore Director George Miller, have been unequivocal in their testimony to the Senate Armed Services Committee and the Senate Foreign Relations Committee.

They all agree that our labs are prepared to maintain our nuclear stockpile, and they are ready to lend their scientific expertise to the overall mission of verification and reduction.

To quote Director Anastasio's Senate testimony:

> I do not see New START fundamentally changing the role of the Laboratory. What New START does do, however, is emphasize the importance of the Laboratories' mission and the need for a healthy and vibrant science, technology and engineering base to be able to continue to assure the stockpile into the future:

Sandia National Labs also plays a major role in stockpile stewardship, life extension, and stockpile surveillance.

Director Hommert's testimony makes clear that Sandia understands the challenges involved under New START but that it is ready to undertake those challenges. He said:

> As a whole package, the documents describing the future of U.S. nuclear policy represent a well founded, achievable path forward.

I believe that it is no small coincidence that the progression toward a world without nuclear weapons will require the continued, diligent work of those who first created and then secured our arsenals.

The safety, security, and reliability of our available nuclear weapons will become increasingly important to our country as we reduce our stockpile.

For New Mexico, President Obama's strategy will mean an expanded role for our National Labs in managing our Nation's nuclear deterrent.

For our country, President Obama's strategy means that we are one step closer to closing the curtain of the cold war's legacy of nuclear arms races.

For the world, it means we will be taking a step forward toward greater cooperation and peace, and one step back from catastrophe.

Fewer weapons mean fewer opportunities for mistakes or losses of warheads. Fewer weapons also mean fewer opportunities for unstable regimes such as North Korea, Iran, or Myanmar, or individuals with malicious intentions to acquire or build a nuclear weapon.

The two nations with the largest stockpile of nuclear weapons have a duty to remain vigilant in protecting the rest of the world from the unthinkable. By ratifying this treaty, the Senate is upholding its duty to protect our Nation and to protect our shared planet.

President Kennedy said the following during his 1962 State of the Union Address:

> World order will be secured only when the whole world has laid down these weapons which seem to offer us present security but threaten the future survival of the human race.

By ratifying this treaty, we move a step closer toward realizing this legacy and continuing a longstanding policy goal of our country—the goal of creating a more peaceful and secure world.

Let us continue our work together by ratifying this treaty and sending a message to the world that the United States of America will continue making significant steps towards peace.

● Mr. BOND. Mr. President, New START is a bad deal for the United States. It requires us to reduce our deployed strategic forces while the Russians can add to theirs. This amounts to unilateral reductions.

The treaty gives Russia political leverage, which they will use, to try to prevent us from expanding our missile defenses to protect us against North Korea and Iran. This is unacceptable.

The treaty fails to deal with Russia's reported ten to one advantage in tactical nuclear weapons or their nuclear, sea-launched cruise missiles. However, the Treaty will limit our nonnuclear ballistic missiles.

Compounding these deficiencies, the treaty's verification is weak and the Russians have a poor compliance record.

As vice chairman of the Senate Select Committee on Intelligence, I have reviewed all the relevant classified intelligence concerning this treaty. I come away convinced that the United States has no reliable means to verify the treaty's central 1,550 warhead limit.

It is also inexcusable that the United States has forfeited in this treaty the rights it enjoyed under START to full and open access to Russian telemetry. This amounts to giving up the ''keys to the kingdom,'' as it will harm our ability understand new Russian missile developments.

The administration has attempted to justify giving up Russian telemetry on the basis that it is not needed to verify the New START treaty. This is only true if you believe that the treaty's ten or fewer yearly inspections of Russian missiles will provide adequate verification. They do not. In fact, these inspections have three strikes against them.

Strike One: The 10 annual warhead inspections allowed under New START only permit us to sample 2 to 3 percent of the Russian force.

Strike Two: The inspections cannot provide conclusive evidence of whether Russia is complying with the 1,550 warhead limit. If we found a missile loaded with more warheads than Russia declared, it would be a faulty and suspicious declaration. However, we could not infer that Russia had thereby violated the overall 1,550 limit. The Russians could just make some excuse for the faulty declaration, as they have in the past.

Strike Three: New START relies on a type of on-site inspections that Russia illegally obstructed on certain missile types for almost the entire 15 year history of START. Russia's use of illegal, oversized covers were a clear violation of our on-site inspection rights under that treaty. As the old adage goes, ''fool me once, shame on you, fool me twice, shame on me.''

Common sense tells us that the worse a treaty partner's compliance history, the stronger verification should be. However, according to official State Department reports by this administration and the previous one, Russia has violated, or is still violating, important provisions of most key arms control treaties to which they have been a party. In addition to START, this includes the Chemical Weapons Convention, the Biological Weapons Convention, the Conventional Forces in Europe Treaty, and Open Skies.

We also know that the lower the limits on our weapons, the stronger the verification should be. But with these lower New START limits, our verification of warhead limits is much worse than under the previous START treaty, with its higher limits.

With all these arguments against the treaty, proponents can only point to one tangible benefit—that we will know more about Russian forces with the treaty than without it. This is hardly a ringing endorsement.

Learning more will hardly compensate the United States for the major concessions included in this Treaty. What are these concessions? Unilateral limits, unlimited Russian nuclear systems, limited U.S. nonnuclear systems, unreliable verification, the forfeiture of our telemetry rights, and perhaps most importantly, handing Russia a vote on our missile defense decisions.

In many cases, concerns about particular treaties can be solved during the ratification process. My colleagues have my respect for their attempts to do so. Unfortunately, New START suffers from fundamental flaws that no amount of tinkering around the edges can fix.

For these and other reasons, I cannot in good conscience vote to ratify the New START treaty.●

Mr. MERKLEY. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

INTEREST ON LEGAL TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I rise this evening to talk about a program that is of great importance to our citizens across America who are struggling to access legal services. There is a program that is called the Interest on Lawyer Trust Accounts or IOLTA. This is a very interesting arrangement that I was not familiar with until I came to the Senate.

Essentially, IOLTA is interest on lawyer trust accounts, and it works like this. When lawyers need to put money into a trust account, they are putting it in that account on behalf of a client or on behalf of an estate. It is not allowed under the law for the client to earn interest. However, there is an arrangement that has been made over the years in which banks agree to pay interest on those accounts, since they are accessing those deposits—those funds—but the interest gets donated to legal services for poor Americans across the United States of America. So it is a win-win. The client isn't allowed to get the interest, but the banks pay the interest to benefit low-income Americans across our Nation.

That is the structure of the IOLTA accounts. All 50 States have these programs. Forty-two States require lawyers to deposit client funds that do not earn net interest for the client into these IOLTA accounts so they will earn interest to pay for civil legal services for the poor.

During the financial crisis, the FDIC created a program to guarantee that the business and trust checking accounts that do not pay interest are insured—they are guaranteed—and IOLTA was included in this because they do not pay interest to the client. The Dodd-Frank reform bill we had, which extended these arrangements for 2 years for accounts that do not pay interest to the clients, forgot to include the IOLTA accounts that do not pay interest to the clients but do pay interest that goes to fund civil legal services for poor Americans in all 50 States.

So we are seeking to fix this glitch. I wish to note that hundreds of thousands of Americans who don't otherwise have access to legal services are in a position to benefit when they need such services across our Nation.

In Oregon, we have the Oregon Law Foundation, the nonprofit, nonpartisan organization that administers legal aid for the poor. They benefited to the tune of over $1 million in revenue in 2009. When interest was a little better, they had more revenue in 2008—$2.2 million. That was a decrease from 2007 of $3.6 million. So as interest rates have declined, the amount of funds that have gone to fund legal services for the poor have declined, but still, a few million dollars is better than none in terms of providing assistance.

In a case such as this—the Oregon Law Foundation—IOLTA funding makes up 95 percent of their total revenue. So if the guarantee is not extended for 2 more years, we have a real problem, and it goes like this. A lawyer has a fiduciary responsibility to a client to put the funds into an account that protects the client. They would not be able to put the funds into an IOLTA account if it is not guaranteed, if they have the option of putting it into a noninterest-bearing fund that is guaranteed and, thus, the bank's willingness to pay interest. So the funding that goes for legal services across our Nation will disappear.

I rise to talk about this because the deadline for this is December 31. We have a bill to fix this before the Senate. But for those who are familiar, in the Senate, any Senator has the ability to put a hold on legislation, and we have a situation where a Senator has put a hold on this. I think, in general, this hasn't gotten much attention, the fact that this assistance that goes to low-income Americans across this country will be deeply damaged, even if 99 Senators support this, because we don't have 100 Senators. So I am rising to basically make an appeal to my colleagues to take a look at the legal programs in your States that are funded by this.

There are legal education programs that are funded. I hope my colleagues will recognize that what we have is a lose-lose situation if we don't change this law, and that lose-lose is legal education and legal services. The banks will actually make more money because they will not have to pay interest. So you have a lose-lose and a win—a loss for the poor, a loss for the students wanting legal education, and a win for banks receiving greater profits.

In this situation, the banks have been absolutely stellar citizens of our communities. In Oregon, we have a host of banks that not only pay interest on these lawyer trust funds, but they have agreed to maintain a floor of 1 percent interest. I would like to mention these banks recognized by the Oregon Law Foundation as leadership banks. I believe this list is as of the end of the year 2009. By mentioning these banks, I am basically saying thank you to these banks for being involved in this program. They include: the Albina Community Bank, the Bank of Eastern Oregon, the Bank of the Cascades, the Bank of the West, Capital Pacific Bank, Century Bank, Columbia River Bank, Key Bank, Northwest Bank, Peoples Bank of Commerce, the Pioneer Trust Bank, Premier West Bank, Siuslaw Bank, South Valley Bank and Trust, the Bank of Oswego, the Commerce Bank of Oregon, Umpqua Bank—a bank that originated in southern Oregon, in timber country, Douglas County, where I come from—U.S. Bank, Washington Trust Bank, and Wells Fargo.

So all these banks have been willing to pay interest on these lawyer trust accounts, knowing they are doing good work in the community by assisting legal programs.

I mentioned one of those programs in Oregon. Let me mention a couple more. The Juvenile Rights Project provides legal services to children and families who do not otherwise have the means to retain counsel through individual representation in juvenile court and school proceedings and through classwide advocacy in the courts, the legislature, and public agencies. It has the only help line offering legal advice for children and teenagers in Oregon. So that is the Juvenile Rights Project.

Disability Rights Oregon. The Oregon Advocacy Center provides statewide legal services to Oregonians with disabilities who are victims of abuse or neglect or have problems obtaining health care, special education, housing, employment, public benefits, and access to public and private services. Oregonians with disabilities look to OAC—that is the Oregon Advocacy Center or Disability Rights Oregon—to protect and advocate for their rights in courts, with public agencies and with the State legislature.

The Classroom Law Project promotes understanding of the law and legal process for 15,000 elementary and secondary school students in the State of Oregon by incorporating the lessons and principles of democracy into school curriculum. Their programs include the High School Mock Trial Competition. That is an extraordinary competition. It is wonderful to see how a high school student can blossom when preparing to argue before his or her peers the facts of a case and the legal principles of a case. It is an enormous education.

The Classroom Law Project also includes the Summer Institute training for teachers. This program enables those teachers to better address the issues of law and legal process in their classrooms.

Also included is the We the People program on the Constitution and Bill of Rights. A lot of us often carry the Constitution. We understand it is the foundation for our government of, by, and for the people, and we want our children to get an education in the Constitution. This is funded in this fashion.

We also have help for citizens who are trying to get into a home mortgage modification, such as HAMP—the Housing Affordable Modification Program—and also families who are working through issues of domestic violence.

So here is the situation. Families addressing domestic violence issues, families addressing wrongful home foreclosures, children—juveniles—seeking legal assistance, the disabled seeking resolution of issues regarding access to health care, special education, housing or employment are being helped. The Classroom Law Project is helping educate our children about the Constitution, about the Bill of Rights, funding

mock trial competitions, and funding the Summer Institute training for teachers. These are the types of tremendous programs that are funded through the interest on lawyer trust accounts. That line of funding, due to a technical overrsight, ends on December 31.

So I am rising to ask my colleagues, if you are the Senator who is holding this up, I encourage you to get the facts from your State because all 50 States participate, and then let this funding, provided through a wonderful arrangement between the banks and our lawyers and these trust accounts, go forward. Who knows how many thousands, the multiple of thousands who will be assisted in challenging situations if we fix this before we adjourn.

I yield the floor.

REGISTRATION OF MUNICIPAL ADVISERS

Mr. DODD. Madam President, on the occasion of the Municipal Securities Rulemaking Board's, MSRB, implementation of congressionally mandated registration of municipal advisers, I would like to briefly speak on this important development. Congress in the Dodd-Frank Act of 2010 sought to enhance the regulation of the $3 trillion municipal securities market. The law expanded the authority of the MSRB in recognition of the MSRB's deep and specialized expertise, and the law expanded the mission of the MSRB to protect issuers and other municipal entities. It directed the MSRB to write rules regulating municipal advisers—persons and firms that advise municipalities and public pension funds or solicit their business on behalf of others, which includes ''financial advisers, placement agents, swap advisers'' and others. The law also reaffirmed the MSRB's authority to regulate the conduct of municipal securities dealers. At the same time, Congress required municipal advisers to exercise a higher, fiduciary standard of care to those municipal entities that seek their advice about municipal securities and other related financial matters.

During the Senate-House Conference for the Dodd-Frank Act, the conferees carefully considered and debated alternative approaches for overseeing municipal advisers and strengthening municipal securities market regulation. We recognized that the MSRB has written a comprehensive set of rules on key issues and said that the MSRB is well-equipped and experienced to write rules regulating participants in the municipal markets. Over the past decades, the MSRB has accumulated knowledge and hired specialized expertise to write rules regulating the complex and varied municipal securities market. In addition, the Banking Committee in its report, S. Report No. 111–176 accompanying S. 3217, said that the MSRB is in the best position to assure that rules are consistent with other rules governing the municipal markets.

Under the new law, the MSRB is expected to develop a robust system of regulation for intermediaries, including swap advisers, as it has for dealers. Swap advisers were specifically identified in the statute and made subject to MSRB rulemaking. The financial press has reported about State and local governments that received bad advice from advisers and entered into swaps and other derivatives that they did not fully understand, that are not performing as promised, and that are now costing them tremendous amounts to unwind. Those swaps are often tied to municipal securities issued by those same State and local governments and Congress recognized the experience of the MSRB in the regulation of the municipal markets.

The act, which authorizes MSRB regulation over municipal advisers, has limited exceptions, including an exception for commodity trading advisers registered under the Commodity Exchange Act or their associated persons who provide advice related to swaps. This exception covers swap dealers and major swap participants regulated by the CFTC. It does not extend to independent swap advisers or other types of municipal advisers not explicitly exempted, which are meant to be subject to the MSRB rules. I expect that the regulators of municipal swaps advisers would adopt rules governing advisory practices that are consistent with each other as well as relevant and appropriate for the municipal markets. Thus, municipal swaps advisers would be subject to practice rules embodying common principles, since they have the same types of clients.

NOMINATION OF ROBERT N. CHATIGNY

Mr. DODD. Madam President, I rise today to express my strong support for the nomination of Judge Robert Chatigny to serve on the U.S. Court of Appeals for the Second Circuit. I would like to thank my dear friend and colleague, Chairman LEAHY, for his efforts on this nomination. Chairman LEAHY, and his staff, does an outstanding job in seeking to ensure that the Federal courts function as our Constitution prescribes. I applaud him for his work and his commitment to the rule of law.

Judge Chatigny was first nominated to the Second Circuit last year, but after a sustained and, in my view, totally unwarranted attack on him by some, my colleagues on the other side refused to grant consent to allow his nomination to remain pending in the Senate. As a result, under rule 31, his nomination, along with 12 others, including 4 other judicial nominees, was returned to the President on August 5, prior to the August recess.

While I was extremely disappointed by this development, I am pleased that President Obama decided to renominate Judge Chatigny to this position. Judge Chatigny is an individual of outstanding character, keen intellect, and extensive judicial experience. I can think of few jurists more qualified to serve on the Second Circuit than he, and I congratulate President Obama on making such an excellent selection to fill this vacancy.

For 16 years, Robert Chatigny has been a Federal judge in Connecticut, serving as chief judge of the District of Connecticut from 2003 to 2009. In addition to ruling on a wide variety of cases, Judge Chatigny has earned a reputation for integrity, intelligence, and strict adherence to the rule of law.

I am pleased that Judge Chatigny has received the support of numerous former Federal prosecutors in Connecticut who understand the importance of upholding the rule of law and vouch for his character and his qualifications. Let me quote from a letter to the Judiciary Committee from three former U.S. Attorneys, each appointed by a Republican President:

> We believe that he is a fair minded and impartial judge, who has the appropriate fitness and temperament for the appellate court.

In addition, the Judiciary Committee has also received a letter signed by 17 former assistant U.S. attorneys currently practicing law in Connecticut, in which they express their confidence that he will be ''unbiased, compassionate, and temperate.''

This support demonstrates the high regard in which Judge Chatigny is held by the members of the legal community in Connecticut that know him best. In addition to the praise from the Connecticut Bar, Judge Chatigny has been unanimously rated ''well qualified'' by the American Bar Association.

Judge Chatigny's legal experience prior to his appointment reveals a rich understanding of—and deep commitment to—the American legal system. After graduating from Brown University and the Georgetown University Law Center, he served as a clerk to three Federal judges, including judges Jon Newman and Jose Cabranes. Prior to his service on the court, he built an excellent reputation in private practice, first as an associate here in Washington, before returning to private practice in Hartford for nearly a decade.

In addition, Judge Chatigny has devoted substantial time and effort to improving the legal profession. When the Governor of Connecticut sought experienced and knowledgeable public servants to help make better public policy, Judge Chatigny was an easy choice, serving on both the State Judicial Selection Commission and the State Commission on Prison and Jail Overcrowding. In addition, he has served in various roles with the Connecticut Bar Association, as well as being an advisor to the congressionally created Federal Courts Study Committee.

Unfortunately, Judge Chatigny has become the target of totally unjust attacks that threaten not only to defeat his nomination but also send a chilling

message that will endanger the independence of all Federal judges.

One may wonder why the nomination of a judge so well qualified and so highly regarded as Judge Chatigny has drawn any opposition at all from my colleagues on the other side of the aisle. The answer lies primarily in Judge Chatigny's role in the appeal of the first death penalty case in Connecticut in 40 years. Here are the facts.

Michael Ross raped and murdered eight women. His crimes were heinous and inhuman. He was convicted in the State courts of Connecticut and sentenced to death. His defense of insanity, although seriously contested at trial on the basis of conflicting psychiatric testimony, was rejected.

On January 21, 2005, 5 days before the scheduled execution, a public defender filed a petition for a writ of habeas corpus in the Connecticut Federal district court that came before Judge Chatigny. The petition presented substantial evidence challenging Ross's competency, alleging that under the U.S. Supreme Court's 1996 decision in Rees v. Payton, Ross was not competent to waive legal challenges to his death sentence, and that his execution would violate the 5th, 6th, 8th, and 14th amendments.

Three days later, on January 24, Judge Chatigny conducted a hearing in the habeas case and heard testimony from a psychiatrist supporting the claim of incompetency. The judge issued a stay of execution. The next day, January 25, the Second Circuit Court of Appeals unanimously denied the State's motion to vacate Judge Chatigny's stay and dismissed the State's appeal from the stay order. Two days later, on January 27, the U.S. Supreme Court, by a vote of 5 to 4, vacated the stay of execution.

Later that same day, Judge Chatigny received new evidence bearing on Ross's competency, and, mindful that he had been instructed not to enter any order delaying the execution, nevertheless felt it his duty to alert all counsel to the new evidence. He therefore faxed it to all counsel, and convened a telephone conference to discuss the evidence.

The next day, January 28, Judge Chatigny convened another telephone conference with all counsel and learned of the existence of additional new evidence bearing on the defendant's mental competency.

Shortly after midnight, the State agreed to postpone the execution until Monday, January 31, at 9 p.m. Later that morning, on January 29, defense counsel received information that the psychiatrist who had testified for the State might now have a different opinion on the issue of mental competency based on the new evidence.

Two days later, on January 31, defense counsel filed a motion in State court to stay the execution. The State did not oppose the motion, the motion was granted, and the death warrant expired.

On February 10, the State trial judge ordered a new competency hearing, which was conducted in the State court for 6 days in early April. On April 22, the State trial judge issued a decision finding that Ross was competent, and on May 10, the Connecticut Supreme Court affirmed. Three days after this final ruling was handed down, Michael Ross was executed.

Thereafter, a State prosecutor filed a complaint against Judge Chatigny alleging that his actions in the Ross case constituted judicial misconduct. The chief judge of the Second Circuit convened a special three-judge panel to investigate the allegations. The panel included former U.S. Attorney General Michael Mukasey, who was then chief judge of the U.S. District Court in Manhattan. The panel unanimously concluded that no judicial misconduct had occurred, and that ruling was unanimously adopted by the Judicial Council of the Second Circuit.

Despite the unanimous conclusion of these distinguished jurists that Judge Chatigny did nothing improper in his handling of the Ross case, it has become a focal point for objections to his confirmation. Some have argued that the judge should not have intervened, even briefly, to delay the execution of such an evil person as Michael Ross, an admitted killer of 8 young women.

I would, however, invite my colleagues to consider carefully the implications of that criticism. Here was a district judge confronted with a substantial claim, in a properly presented petition for a writ of habeas corpus, that new evidence put in doubt the competency of a defendant about to be executed.

The judge had two choices: he could turn his back on the matter and let the execution proceed without any examination of the new evidence, or he could insist that constitutional standards be followed and the new evidence be considered so that the execution, if and when it occurred, would be carried out in accordance with constitutional requirements.

Turning his back on the case would have been the easier course. Accepting the challenge to consider the habeas corpus petition, I believe, took considerable courage. The judge acted in conformity with his oath of office, which obliges him to uphold the Constitution of the United States. And for that, he is being savagely attacked.

Some critics of Judge Chatigny's nomination point out that the stay of execution issued by the judge was later vacated by the U.S. Supreme Court by a vote of 5 to 4. And, of course, that 5 to 4 majority ultimately prevailed.

But it must be noted, in assessing Judge Chatigny's decision to issue the stay, that of the 13 judges that reviewed the matter—1 district judge, 3 Circuit Judges, and 9 Supreme Court Justices—only 5 thought the stay should not have been issued, and 8 thought it was proper.

Even more significant is the fact that once the new evidence was brought to the attention of the counsel for the State, the State elected not to oppose a new court hearing so that the new evidence could be fairly considered. The new evidence was of sufficient value to require 6 days of hearings in the State court.

Ultimately, the new evidence did not change the outcome of the case, and Ross was executed. But if Judge Chatigny had not intervened, an execution would have occurred without the 6-day hearing that the State court found necessary to determine the defendant's competency, and the assurance of compliance with constitutional requirements would have been lost.

After a call for an investigation by some legislators in Connecticut was made, the Bar Association's president publicly stated that ''no one should want decisions of life or death made without consideration of all relevant facts and circumstances,'' and that the attacks on the judge threatened to ''undermine'' the independence of the judiciary. Judge Chatigny's handling of the Ross case was praised by both the Hartford Courant and the Connecticut Law Tribune.

If Judge Chatigny is to be attacked for performing his constitutional function as he saw it, what message does that send to other judges when confronted with constitutional claims in cases that understandably arouse public passions?

Let me respond to one other criticism that has been made concerning the Ross case. The critics have quoted Judge Chatigny as saying that Ross should never have been convicted. Their quotation is a serious distortion of what the judge said.

Speaking with reference to the evidence of Ross's insanity defense, the judge said, expressing the traditional standard courts use in determining whether there is sufficient evidence to present an issue to the jury, that ''looking at the record in a light most favorable to Mr. ROSS, he never should have been convicted.'' Unfortunately, the critics have left out the important first half of that statement.

Let me also briefly mention the concerns raised by some about Judge Chatigny's treatment of Michael Ross's attorney in regards to his law license. I think this criticism does not stand up to close scrutiny.

It is, of course, true that Judge Chatigny had a heated discussion with the Ross's lawyer regarding his client's competence. Judge Chatigny believed strongly that a state court in Connecticut should be given the opportunity to consider new evidence of Ross's competence and tried to convince the attorney of this.

There is no doubt that the exchange between Judge Chatigny and the defense lawyer was intense. However, as the Judicial Council of the Second Circuit found, there was no misconduct in this episode. In fact, the special committee's report stated:

The judge was clearly concerned that [the defense lawyer's] reluctance to engage the

court in the question of Ross's competence . . . might cause an unconstitutional execution. It is clear the judge's concern was to repair what he perceived as a breakdown in the adversarial process, resulting from an attorney's insistence on adhering to his client's expressed desire to waive judicial review and consent to his execution, in spite of indications that the client might be without competence to make such a waiver. The judge's perception of the need for remedial action in his communications with the attorney was reasonable. While his words were strong, when properly understood they were not unreasonable.

Further, who among us in public life during debates on contentious issues has never said anything that we would perhaps not repeat? The next business day after this episode, Judge Chatigny sought out the defense lawyer and apologized for his actions. He recognized that his words were ''excessive'' and at the first chance available sought to apologize for them. I think this shows exactly the sort of humble and self-examining personality that we need more of on the court.

But perhaps most importantly, Mr. President, one verbal exchange between a judge and counsel, in the middle of a highly contentious and emotional court case does not shed light on the entire arc of a judge's career. As demonstrated from the record and the support he has received in Connecticut, this episode is an aberration and one not likely to be repeated. We should not unduly punish someone with an outstanding record such as Judge Chatigny because of one heated exchange. What type of judicial standard would we be asking of those who aspire to the bench?

The critics have also said that the complete exoneration of Judge Chatigny on the misconduct complaint has little, if any, bearing on whether he should be confirmed for the court of appeals. Yet they persist in claiming that the Judge did something improper when the claim of improper conduct was totally rejected.

On this last point, I believe it is also worth reiterating that one of the judges who served on that panel, Michael Mukasey, also served as U.S. attorney general during the waning years of the Bush administration.

But Michael Mukasey has done more than simply reject a misconduct complaint. Once the nomination of Judge Chatigny was made, Michael Mukasey let it be known that he supported the confirmation of Judge Chatigny for a seat on the court of appeals. Can anyone seriously believe that a former U.S. attorney general would support a nominee to the Federal bench who was not unquestionably deserving of confirmation?

And Michael Mukasey's support of Judge Chatigny's nomination does not stand alone. As I mentioned earlier, three former U.S. attorneys appointed by Republican Presidents, the prosecutors most familiar with Judge Chatigny's record, have publicly informed the Senate Judiciary Committee that they strongly support his confirmation for the court of appeals, as have 17 former assistant U.S. attorneys.

One other criticism of Judge Chatigny also must be addressed. Individuals have attacked Judge Chatigny because in some instances, he imposed a sentence below the sentencing guidelines in certain cases.

What his detractors ignore is that Judge Chatigny has also imposed sentences at or above the top of the guidelines' range and that, according to Sentencing Commission statistics, Judge Chatigny's sentences are well within the mainstream of sentences of all the judges in his district.

Indeed, the best commentary on Judge Chatigny's sentences in criminal cases is the fact that in the 16 years he has been a district judge, Federal prosecutors have not sought to appeal even one of these decisions. Let me repeat that: in 16 years as a Federal judge, prosecutors have never appealed one of Judge Chatigny's sentences.

I have served in this body for nearly 30 years. I am extremely proud of this institution and believe that it plays a critical role in our republic. One of the most important functions we have is to vote on nominees to the executive and judicial branches of our government.

It saddens me to note that this body has let partisan politics and delaying tactics interfere with our constitutional responsibility to provide advice and consent on the President's nominees. Unfortunately, Judge Chatigny is not the only eminently qualified judicial nominee to face this challenge.

As of November 29, the Senate had only confirmed 41 of President Obama's Federal circuit and district court nominees so far this Congress. By contrast, during the first Congress of the George W. Bush administration, the Senate, which at that time was controlled by Democrats, confirmed 100 of that President Bush's nominees to the Federal bench.

In addition, there have been repeated roadblocks to the consideration of numerous well-qualified nominees to critically important posts within the executive branch. The Federal Government has an immense amount of work to do, and obstructionist tactics have only made that harder.

I am convinced that this Judge deserves to be confirmed. He has outstanding qualifications and an outstanding record. No one, even his critics, doubts either his qualifications or his record. I believe he is being opposed because he acted with great courage to live up to his oath of office and uphold constitutional standards in one widely publicized case involving a despicable murderer.

Would that all judges display that kind of courage when put to a similar test.

Let me conclude with one further point. I recognize that some of my colleagues believe that Judge Chatigny's handling of the Ross case merits criticism. I believe, on the contrary, that his handling of the case was a courageous defense of constitutional requirements, as do many others, including experienced Federal prosecutors from both political parties.

But let us assume, for a moment, that the criticism is valid. What I would then ask this body to consider is this: is the criticism of the handling of one case out of the thousands over which Judge Chatigny has presided in 16 years as an outstanding U.S. district judge a sufficient reason to oppose his confirmation for the court of appeals?

Have we, as Senators, permitted the President's selection of a well qualified judge with 16 years of outstanding judicial service to be thwarted because in the hours before a scheduled execution, the first in Connecticut in 40 years, this judge thought it was his duty to make sure that constitutional standards, as he understood them, required him to act, not to overturn a conviction, not to overturn a death sentence, but simply to make sure that new evidence bearing on the defendant's mental competence was fairly considered?

It goes without saying that I am very disappointed the Senate will not be voting on this nomination before the end of the 111th Congress. Judge Chatigny is superbly qualified for a seat on the Second Circuit, and I believe the Senate has made a serious mistake by not confirming him.

FLOODING IN COLOMBIA

Mr. LEAHY. Madam President, I want to take a minute to call attention to a humanitarian disaster that has received only passing mention in the international press and which many Senators may be unaware of.

On December 7, Colombia's President Juan Manuel Santos declared a state of ''economic, social and ecologic emergency'' as a result of massive flooding which he called a ''public calamity.''

Heavy rains over a period of months have caused landslides that have swept away homes and rivers to overflow their banks, and now large areas of the country are inundated with water. According to a December 17 report by the U.N. Office for the Coordination of Humanitarian Affairs which is assisting the Colombian government, so far 2.1 million people have been affected by the flooding, 270 have died, 62 are missing, and more than 300,000 houses have been damaged or destroyed. Thousands of miles of roads have been obstructed, damaged or destroyed.

Twenty-eight of the country's 32 departments, which comprise 61 percent of the country, have been affected. President Santos said the number of homeless from the flooding could reach 2 million, and that ''the tragedy the country is going through has no precedents in our history.'' What's worse, the rains are expected to continue through next June.

I do not have to remind anyone here of our close relationship with Colombia. I also know Colombia has emergency response capabilities which may not exist in remote areas of other countries similarly affected by severe flooding or other natural disasters, such as Pakistan. I was pleased to learn that the U.S. Army Corps of Engineers has people in Colombia because the devastation is on a scale more massive than any developing country could deal with alone. There may also be other ways we can provide assistance.

I also use this opportunity to note what appears to be the growing number and intensity of natural disasters around the world that are straining the international community's emergency response capabilities. While no single weather event can be definitively attributed to climate change, scientists have long predicted an increase in the frequency and severity of extreme weather events as a result of global warming. They also predict that as many as 200 million people could be displaced by natural disasters and climate change by 2050. That would cause incalculable havoc for many countries.

President Santos, who to his credit has been out in the countryside with people who have lost family members, homes and, in many cases, everything they own, said he canceled his trip to the U.N. Climate Change Conference in Cancun so he could deal with the devastation that climate change is causing in his own country. Pakistani government officials likewise blamed climate change for the massive floods there that have affected more than 20 million people over the past several months.

Whatever the cause, and there isn't time today to discuss my views about the role that deforestation and the burning of fossil fuels play in global warming, the world's climate is unquestionably changing. And a disproportionate number of recent climate related disasters has occurred in the world's poorest countries where most people's lives depend on agriculture. They have seen their homes destroyed, crops drowned in water and buried in mud, and what few possessions they have swept away. Other countries have suffered years of drought, and water sources that have sustained life for centuries have dried up. In as little as 25 years, glaciers that millions of people and their livestock depend on for drinking water have shrunk to a fraction of their size.

These issues are going to occupy our time and severely tax our resources for the foreseeable future, and we and other countries urgently need to develop plans to try to prevent and adapt to climate change and to respond when disaster strikes.

I am encouraged that there is a new field of research specifically focused on better understanding, preventing and responding to large scale displacement of people as a result of climate change and natural disasters. Nongovernmental and international organizations are working to develop strategies to protect the world's most vulnerable people from this growing threat. We need to support this and work together.

I commend President Santos who has not only helped to alert the world to a catastrophe that had previously gone largely unnoticed outside his country, but who has taken other important steps in his first months of office that have won the respect and support of the Colombian people. His efforts to diffuse tensions with Colombia's neighbors, to begin tackling head on the daunting economic, social and judicial challenges facing Colombia, and to appoint several top officials who have the necessary qualifications and integrity, are admirable.

After a decade of Plan Colombia, U.S.-Colombia relations are entering a new phase. While there will likely continue to be issues about which we disagree, I look forward to working with President Santos and his government on a wide range of issues of mutual interest and concern.

TRIBUTE TO LULU DAVIS

Mr. LEAHY. Madam President, as we approach the end of this Congress we are saying goodbye to people with whom we have been privileged to serve over the past years. We often talk about Senators who have completed their terms. In that regard, a number of my friends will be leaving the Senate and I am making statements about them.

Today, I want to talk about a woman who has served the Senate and the American people for three decades, and whose career sets a high standard of professionalism and public service that inspires countless others. She was not elected to serve as a Senator, but she has been essential to the work of the Senate for a number of years.

Lula Johnson Davis began her Senate career as a legislative correspondent for Senator Russell Long of Louisiana. She later worked for the Democratic Policy Committee. In 1993, she became a key member of our Democratic floor staff The floor staff is critical to the proper functioning of the Senate.

They advise Senators on floor procedure and help keep the Senate operating within the formal Senate Rules and the informal Senate practices that honor our traditions of courtesy and civility. When Senators are not bollixing up the proceedings, the floor staff facilitates the business of the Senate.

They are the unseen and unrecognized teachers for new Senators. They help guide all of us through Senate consideration and voting on every measure that comes before this body.

She leaves the Senate having started as a legislative correspondent and having risen to become the Secretary of the Majority of the U.S. Senate.

Through the decade of the 1990s and this first decade of the new century, as the assistant secretary and now secretary, it has been this woman from Louisiana who has helped guide the Senate. We each, Senators on both sides of the aisle, owe her our gratitude. She is a professional who helps set the right tone for all of us—Senators, staff, and pages.

The young people, high school students from around the country, who continue their studies while serving as Senate pages for a semester or a summer are another group of beneficiaries of Lula' s tutelage. She is a tough but fair taskmaster. Democratic pages learn that every job, no matter how small, needs to be done right.

They learn lessons that will serve them throughout their lives. She has been a mentor, friend and role model to hundreds of youngsters from around the country over the years. At the end of their tour of duty, they appreciate what she has given them and, I hope, share her respect for the Senate.

She has never failed to fulfill her duties as she has steadfastly served with a succession of Democratic leaders. In truth, she has served not just the Democratic Senate caucus but the Senate and the country.

I will miss Lula Davis and wanted to say how much I appreciate all she has done for each of us.

AMERICA COMPETES REAUTHORIZATION ACT

Mr. BINGAMAN. Madam President, last Friday the Senate in an act of bipartisanship reauthorized the America COMPETES Act, which was first signed into law August 9, 2007. It did so this time under unanimous consent; the last time it took 3 days of debate. I would like to note that this reauthorization continues the strong tradition of bipartisanship which augurs well for the ability of our Nation to conduct cutting edge research while innovating and competing in our global economy. In a time of concern about our budget deficit, the passing of this act by unanimous consent is an acknowledgment by the Senate as a whole that tax dollars spent on these topics is money well spent.

But behind that simple act of unanimous consent laid almost 2 years of hard work at the staff and Member level in the Senate.

First and foremost, I would like to acknowledge the leadership of Senator LAMAR ALEXANDER. Senator ALEXANDER worked with members of his Republican caucus to ensure their views were incorporated into this bill. He has kept his unwavering belief that the strength of our Nation, its ability to proposer and create good paying jobs, rests on the investment we make in educating our children in science and education, conducting research at universities and laboratories and using a well educated workforce to promote innovation in our global economy.

The America COMPETES Act involved the work of three Senate committees: the Senate Commerce, Science and Transportation Committee; the

Senate Committee on Health Education, Labor and Pensions, HELP; and the Senate Energy and Natural Resources Committee. As before, Matt Sonnesyn, who participated in the last America COMPETES effort provided a stable and steady push to keep the bill on track. In the Commerce Committee, Ann Zulkosky on Senator ROCKEFELLER's staff worked long hours through a markup and subsequent staff drafts of the bill while at the same time managing to reauthorize NASA. Maryam Khan and Hugh Derr on Senator Hutchinson's staff worked with Ann throughout this time; Robin Juliano on Senator HARKIN's staff on the HELP committee worked with Christopher Eyler on Senator ENZI's HELP staff to ensure education programs were updated where appropriate; Jonathan Epstein on my Energy Committee staff worked tirelessly, as he did on the original bill, and along with Isaac Edwards on Senator MURKOWSKI's Energy Committee staff worked through energy programs and updated them to account for changes since the last COMPETES Act.

There are other important staff I would like to acknowledge who made this effort in the Senate a success: David Cleary on the HELP Committee, Adam Rondinone and Neena Imam in Senator ALEXANDER's personal office, Ann Begeman, Senator Hutchinson's Commerce Committee Staff Director, Ellen Doneski, staff director for the majority and Chris Martin, Andrew Ruffin, Bruce Andrews, and Brian Hendricks of the Commerce Committee; Trudy Vincent, my legislative director and Peter Zamora, my education counsel; Robyn Hiestand on the Budget Committee, Rachel Sotsky in Senator LIEBERMAN's personal office, Lula Davis, the secretary for the majority, Tim Mitchell on Senator REID's floor staff, Laura Dove the assistant secretary for the minority and Bob Simon, my Energy Committee staff director. Finally, I need to give a special thanks to the legislative counsels who worked with staff to accurately draft the bill—Lloyd Ator on the Commerce Committee, Amy Gaynor who drafted the HELP Committee text and Gary Endicott who drafted the Energy Committee text.

As you can see, the America COMPETES Act involved a large number of bipartisan staff, all working together for the common goal of promoting the ability of our nation to compete in a global economy. I am grateful to all of the them for their hard work.

I am also delighted that today, December 21, the House of Representatives passed this bill as well.

LEONHART NOMINATION

Mr. KOHL. Madam President, I rise to announce that I have lifted the hold I placed earlier this month on Michele Leonhart's nomination to be Administrator of the U.S. Drug Enforcement Agency, DEA. I had placed the hold reluctantly after numerous failed attempts to work with the agency for over a year on the issue of delivering pain medication to nursing home residents in a timely matter.

At a Special Committee on Aging hearing I chaired earlier this year, panelists detailed a recent DEA enforcement initiative that has delayed many nursing home patients from receiving much-needed medication to control their pain. For several years, nurses had been able to call into pharmacies urgently needed prescriptions following a doctor's order. Pharmacies would fill the order, patients would get their pain medication, and doctors would follow up with written confirmation of the prescription. Due to the DEA's new enforcement initiative, pharmacies face huge administrative fines if they continue to follow this practice. Most disturbingly, nursing home residents sometimes must endure the pain for hours or even days as nursing home staff try to adhere to the newly enforced regulations. Finally, nursing homes have been forced to send frail and pain-ridden residents to the emergency room, at great cost, simply to get pain medication that they used to be able to get in their nursing home.

At Ms. Leonhart's nominating hearing before the Judiciary Committee in November, I expressed my disappointment that the DEA had not followed through on the pledges made to the Aging panel in March to work with us to address the problem swiftly. Nearly 2 weeks after her confirmation hearing—and three months after submitting a draft proposal to DEA—I was told that any solution would require each State to grant nursing homes the authority to dispense controlled substances pain medications. However, any solution requiring ''state-by-state'' action would take many years to achieve. The urgent pain relief situation in nursing homes will not permit such a long-term approach. When the Judiciary Committee approved Ms. Leonhart's nomination, I asked to see meaningful progress on the issue prior to her final confirmation.

I am pleased to have recently received Attorney General Eric Holder's assurance that he will promptly deliver the DOJ's support for a legislative fix. As a result of our discussion, I am releasing the hold on Michele Leonhart's nomination, and I look forward to introducing a mutually acceptable legislative fix in the opening days of the 112th Congress.

Based on our agreement, DOJ will deliver draft legislation to me in January to permit the timely delivery of pain medications to nursing home residents. The legislation will deem certain nurses or other licensed health care professionals to be ''authorized agents.'' Those agents will be chosen and designated by the nursing home as agents of DEA-licensed practitioners—practitioners being the resident's attending physician or specialist. They will be authorized to transmit the practitioner's order for a controlled substance, specifically schedule II drugs, to DEA-licensed pharmacies orally or by fax. The nursing home, while not licensed by DEA, will designate those authorized to transmit a practitioner's order and to make a list of those authorized agents available to the pharmacy. In exchange, nursing homes, practitioners, and pharmacies will be required to take certain steps to verify their accountability.

I happily submit for the record a document detailing the specifics of our agreed-upon framework for the legislation outlined above. I am confident that it will ensure our mutual interests are met by enabling nursing home residents to have the pain medication they need while preventing drug diversion and misuse. I would like to thank Attorney General Holder for his strong commitment to seeing that a Federal legislative solution can be moved forward in the opening weeks of the 112th Congress. After all, time is of the essence for nursing home residents who are in need of immediate pain relief.

CONFIRMATION OF ALBERT DIAZ

Mr. CARDIN. Madam President, I am pleased the Senate has confirmed the nomination of Albert Diaz of North Carolina to be a U.S. circuit judge for the Fourth Circuit.

Judge Diaz is strongly supported by his home State Senators, Senators HAGAN and BURR, and he received the highest possible rating of ''well qualified'' from the American Bar Association's rating committee. The process Senators HAGAN and BURR used to recommend these nominations to the President—working in a bipartisan fashion with each other and the White House—is a model for how we can improve the judicial selection and confirmation process going forward.

I chaired the confirmation hearing for Judge Diaz in December 2009, and in January 2010 the Judiciary Committee unanimously approved his nomination by a 19–0 vote.

I am disappointed that it has taken the Senate almost a full year to take final action on this nomination.

I take a special interest in the Fourth Circuit, as it includes my home State of Maryland. When President Bush was in office, in May 2008 I chaired the confirmation hearing for Justice Steven Agee, who served on the Virginia Supreme Court and was confirmed to be a U.S. circuit judge for the Fourth Circuit. Since President Obama has taken office, in April 2009 I chaired the confirmation hearing for Judge Andre Davis of Maryland, a Federal district judge in Baltimore, who was confirmed last year to be a judge on the Fourth Circuit. In October 2009, I chaired the confirmation hearing of Justice Barbara Keenan of Virginia, who had served on the Virginia Supreme Court and was confirmed in March of this year by the Senate. Finally, in December 2009, I chaired the

confirmation hearing of James Wynn of North Carolina, who had served as an associate judge of the North Carolina Court of Appeals, and was confirmed by the Senate in August 2010.

I mention these nominations by way of background for my colleagues, because the Fourth Circuit has had one of the highest vacancy rates in the country. When I came to the Senate in 2007, out of the 15 seats authorized by Congress, 5 of the seats of the Fourth Circuit were vacant. That means that one-third of the court's seats were vacant. Our circuit courts of appeals are the final word for most of our civil and criminal litigants, as the Supreme Court only accepts a handful of cases.

We should also be working to increase the diversity of the judges of the Fourth Circuit. The Fourth Circuit is one of the most diverse circuits in the Nation, according to the most recent Census estimates. In terms of the Fourth Circuit—which consists of Maryland, Virginia, West Virginia, North Carolina and South Carolina—22 percent of the residents are African American. In my home State of Maryland, African Americans constitute 30 percent of the population. By way of comparison, the U.S. population is 12 percent African American.

Ironically, the judges on the Fourth Circuit have not historically been known for their diversity. The first woman to sit on the Fourth Circuit was not appointed until 1992. The first African American to sit on the Fourth Circuit was not appointed until 2001.

In recent years I am pleased that the Fourth Circuit has indeed become more diverse and representative of the population it oversees. The Senate took another important step forward to increase diversity on the Fourth Circuit with the confirmation of Judge James Wynn before our August recess. I am pleased that 4 out of the 15 judges on the Fourth Circuit—about one-quarter of the court—are now African American. And I am also pleased that in 2007, for the first time in history, a woman served as chief judge of the Fourth Circuit. Until a vacancy occurred last year, women made up 3 out of the 15 judges on the Fourth Circuit, or one-fifth of the court. I look forward to further increasing the diversity of the Fourth Circuit in the future.

With the nomination of Judge Diaz, the Senate has another opportunity to increase diversity on the Fourth Circuit. Judge Diaz is the first Latino judge to ever sit on the Fourth Circuit in its history.

Judge Albert Diaz also comes to the Senate with a broad range of both judicial and legal experience in both the civilian and military court systems.

Judge Diaz currently serves as a special superior court judge for complex business cases, one of only three in North Carolina.

Judge Diaz began his legal career in the U.S. Marine Corps legal services support section, where he served as a prosecutor, defense counsel, and ultimately chief review officer. He then moved to the Navy's Office of the Judge Advocate General, JAG, where he served for 4 years as appellate government counsel handling criminal appeals. Upon entering private practice, Judge Diaz remained in the Marine Corps Reserves, serving over the years as a defense lawyer, trial judge, and appellate judge.

Judge Diaz was the first Latino appointed to the North Carolina Superior Court when he was named as a resident superior court judge in 2001.

I therefore pleased that the Senate has confirmed Judge Diaz, an outstanding nominee who enjoys bipartisan support from his home State Senators and a unanimous endorsement from the Judiciary Committee. By confirming Judge Diaz, the Senate takes an important step in bringing the vacancy rate down on the Fourth Circuit, and for the first time in many years the confirmed judges on the Fourth Circuit will be almost up to full strength. Finally, we will have a more diverse bench that better represents the population of this circuit.

DIPLOMACY

Mr. INHOFE. Madam President, today I wish to talk about public diplomacy. I have spent a lot of time in Africa and have built close relationships with many African leaders. As you know, our country's official diplomacy is conducted by the State Department. However, public diplomacy involving people-to-people interaction is equally important for promoting a positive image of America to the world. The United States is admired as a beacon of freedom for oppressed people everywhere. The attacks on the U.S. of 9/11 demonstrate the new challenge we face by the forces of ignorance and intolerance that seek the destruction of our country.

Today I include in the record an insightful essay that I will share with the members of the Senate Foreign Relations Committee about the critical role of public diplomacy in building bridges of good will for the United States. The author is Richard Soudriette, the president of the Center for Diplomacy and Democracy in Colorado Springs, CO. Mr. Soudriette is the founding president of the International Foundation for Electoral Systems, IFES, which has promoted free and fair elections in over 120 countries.

I have a long and personal history with Richard as he was my chief of staff in my office as mayor of Tulsa. Since then, he went on to be the founding president of the International Foundation for Electoral System, IFES, which has promoted free and fair elections in over 120 countries. Richard and I share the same heart for Africa and the same vision for developing countries around the world; that they continue to move towards self-sufficiency and become thriving economic nations.

His essay discusses public diplomacy at the local level and mentions my home town of Tulsa, OK, as an example of a community that has developed innovative international visitor programs. Public diplomacy is vital to keeping our country safe. The best way to defeat the forces of extremism is to educate people around the globe about America and our values, culture, and people.

I strongly support Richard's work around the world and I ask unanimous consent that the statement by Richard Soudriette be printed in the RECORD.

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

PUBLIC DIPLOMACY: BUILDING BRIDGES OF UNDERSTANDING

[By Richard W. Soudriette, Center for Diplomacy and Democracy, December 8, 2010]

Ever since the proclamation of the Declaration of Independence in Philadelphia over 200 years ago, America has championed the power of the human spirit. Across the globe, America is a beacon of freedom that gives hope to people living under oppression.

Our country faces many challenges never envisioned by the Founding Fathers in 1776. The deadly attacks on America that occurred on September 11, 2001 revealed that extremist elements seek to destroy America and all that it symbolizes. Al-Qaeda and their cohorts are dedicated to the eradication of human rights and democracy. Islamic extremists do a great injustice to Muslims who reject the extremist philosophy of hatred, ignorance, and intolerance.

Defeating the forces of extremism will require more than military power. It also will require tenacious public diplomacy to educate people from Muslim countries, as well as elsewhere, about America.

Public diplomacy is a term that was coined by respected career U.S. diplomat, Edmund Gullion, who also served as dean of the Fletcher School at Tufts University. Ambassador Gullion described public diplomacy as the way sovereign nations openly and transparently communicate their ideas, culture, and values to people of other countries.

Public diplomacy has become an essential component of U.S. foreign policy. The Obama Administration has sought increases in public diplomacy funding. The current Under Secretary of State for Public Diplomacy and Public Affairs, Judith McHale, recently unveiled ''The Strategic Plan for Public Diplomacy for America in the 21st Century.''

Despite bipartisan support for public diplomacy, the image of the U.S. continues to lose ground in many parts of the globe. Our image problem in many countries is documented by the work of the Pew Charitable Trusts Global Image Project. Some respected organizations such as the Council on Foreign Relations have focused on the failings of our public diplomacy apparatus. The morphing of the United States Information Agency into the State Department during the Clinton Administration is identified as a major cause for deficiencies in our public diplomacy efforts. The Council on Foreign Relations has offered recommendations to the State Department to fix our public diplomacy, but these will require time and funding to implement.

The State Department already has the means to improve our public diplomacy outreach to the world. For example, the State Department should make certain that ambassadors and foreign service officers are fully briefed on the State Department's public diplomacy strategic plan before they are

posted abroad. Also, it should be made clear that a major part of their duties will be to assist the Secretary of State in implementing the plan.

Foreign service officers provide an immediate opportunity for the U.S. to engage in effective public diplomacy. In 2008, the United States Advisory Commission on Public Diplomacy issued a report entitled ''Getting the People Part Right: A Report on the Human Resources Dimension of Public Diplomacy.'' This report highlights the public diplomacy void that has existed since 1999 when the United States Information Agency was eliminated and its functions were merged into the State Department. The report states that most foreign service officers fail to grasp the importance of public diplomacy, and at best, they merely pay lip service to it. The report also discusses the lack of recruitment of U.S. diplomats with the appropriate people skills for public diplomacy. The report cites the need for more training for our diplomats so that they might have the knowledge and the skills to effectively interact with people from other countries.

Newly hired foreign service officers frequently work at U.S. Consulates processing visa applications for persons wishing to travel to the U.S. This is a high stress job and it demands that they possess strong interpersonal skills. While serving as the director of the Peace Corps program in the Dominican Republic, I frequently heard anecdotes from Dominicans who had received rude treatment when seeking visas at the U.S. Consulate. While the visa application process requires extensive screening, all visa applicants should receive prompt and courteous service. U.S. diplomats who engage in arrogant behavior towards visa applicants create ill will and plant seeds of hatred towards America.

Another aspect of public diplomacy that needs attention is the manner in which officers of the Bureau of Customs and Border Protection receive and process arriving international visitors. Since the events of 2001, the work of Customs and Border Protection officers has become more stressful and challenging. While most officers perform well, there are some who do not receive international visitors with courtesy. Customs and Border Protection officers play a huge public diplomacy role. When officers are surly, they offend international visitors to the United States.

The Bureau of Customs and Border Protection should incorporate customer service training into its curriculum for all personnel. When developing this training, it would be wise to tap the experience of companies like the Disney Corporation which has a track record of receiving throngs of people with respect and courtesy. Courteous treatment upon arrival in our Nation can pay dividends by promoting a positive image of the United States.

The State Department and the U.S. Agency for International Development (USAID) can achieve immediate impact in public diplomacy by requiring all contractors and grantees to incorporate public diplomacy aspects into their work. USAID utilizes many for-profit and not-for-profit organizations to provide services in areas such as democracy, economic development, governance, health, public works, and rule of law. All organizations that undertake work abroad on behalf of USAID have an important public diplomacy responsibility.

USAID should require grantees and contractors, whenever feasible, to hire project managers who speak the language of the country where they are working. Personnel working abroad on USAID funded projects should undergo orientation training about local culture and customs.

International visitor programs play a key role in successful public diplomacy. For nearly sixty years, the State Department has funded visits by thousands of international visitors to acquaint them with our country. Often, these visitors eventually become leaders in their countries. The President of France, Nicolas Sarkozy, traveled to the U.S. in 1985 on a State Department sponsored trip. Today he is regarded as one of the most pro-U.S. leaders in France.

The State Department's Bureau of Educational and Cultural Affairs funds most of the government sponsored international visitor and scholarship programs. The bureau has rules in place stipulating that prime contractors and grantees for State Department funds must be in existence for a minimum of four years. These rules stifle innovative programming by new organizations and inhibit the ability of community based groups beyond the Capital Beltway to access funding.

For most international visitor programs, the State Department contracts with the same large East Coast organizations. These organizations rely on a patchwork of community based groups across the U.S. to organize meaningful professional, educational, and cultural programs for international visitors. Unfortunately, these East Coast organizations pass on very little, if any, funding to communities that have agreed to receive international visitors. Hosting of international visitors relies on local volunteers and in-kind support. The lack of financial resources at the local level results in a huge disparity in the quality of programming that international visitors receive.

Some communities like Tulsa, Oklahoma do a superb job in organizing and managing international visitor programs. Since 1995, the Tulsa Global Alliance has provided excellent programs in this area. Tulsa has developed an organizational model that relies on a mix of professional and volunteer support. The Tulsa program has been successful in developing a broad funding base that provides more than $400,000 per year for international visitor activities. Funding comes from corporations, individual donors, foundations, program fees, and limited grants from the State Department.

It is recommended that the State Department modify its rules for funding international visitor programs. Contracts for large organizations should require that they provide grants of at least 25 percent of their total project budgets to be passed on to international visitor committees at the local level. This funding will help provide needed resources to ensure that high quality programs are offered to international visitors. The public diplomacy implications of these international visitor programs are too important not to have sufficient funding.

The Bureau of Educational and Cultural Affairs of the State Department should give priority to funding small and newly established organizations engaged in international visitor programs. The Bureau should be encouraged to make available up to 25 percent of its budget for international visitor programs to small and newly established organizations. This new approach would open the door for communities across America to develop their own capacity to implement high quality international visitor programs. The end goal would be that each international visitor would have a fulfilling experience in the U.S.

The security of America and the future of our democracy demand more commitment to public diplomacy. To keep America safe and to protect our values, ideals, and principles, we must build bridges of understanding with people across the globe.

ADDITIONAL STATEMENTS

MISSOURI 2009 MALCOLM BALDRIGE AWARD RECIPIENTS

• Mrs. MCCASKILL. Madam President, I think that every Senator is understandably proud of their own State, but today I have special reason to be proud of Missouri. Just last week, Vice President BIDEN awarded the 2009 Malcolm Baldrige National Quality Awards to five different companies and three of those five companies hailed from the great State of Missouri. The Baldrige Award recognizes only the highest performing companies in the U.S. in terms of quality and performance, and the fact that three out of the five awards went to Missouri companies is a testament to the spirit and work ethics of Missourians.

Heartland Health is a health system based in St. Joseph, MO, that has an extraordinary commitment to improving their patients' health rather than just treating patients' sicknesses, as is all too often seen in the healthcare community. The staff at Heartland Health recognizes that while providing world-class treatment for acute illnesses is vital, it is equally important to understand why individuals become ill, and they do everything possible to prevent those patients from ever needing hospital care in the first place. Their mission is: ''To improve the health of individuals and communities located in the Heartland Health region and provide the right care, at the right time, in the right place, at the right cost with outcomes second to none.'' This is not just a catchy slogan, but instead it is a commitment that has yielded results. Heartland Health is among the top 15 percent of all U.S. hospitals in patient safety; they have achieved 90 percent patient satisfaction, and they have done all this while at the same time saving millions of dollars by realizing efficiencies. As our entire country struggles with providing quality healthcare at affordable prices, I invite anyone to visit the ''Show Me'' State, where Heartland Health stands as an example for how a commitment to quality can yield the best care available affordably. They have been appropriately recognized with the Malcolm Baldrige National Quality Award, joining a select group of companies that are the best of the best, and I applaud Heartland Health and all of the great men and women who make up its team for their achievement and their work.

Honeywell Federal Manufacturing & Technologies in Kansas City, MO, plays an integral role in the underappreciated work of keeping our Nation's nuclear arsenal in working order. The Kansas City Plant works to provide the National Nuclear Security Administration with electrical, mechanical and material components manufactured to exacting quality specifications to help meet key national security objectives. Honeywell Federal Manufacturing & Technologies uses a Six Sigma Plus

Continuous Improvement Model and it has resulted in an unmatched level of customer satisfaction. Honeywell has also been a key partner in the transition to the new state-of-the-art Kansas City Responsive Infrastructure, Manufacturing and Sourcing, KCRIMS, facility, which officially broke ground in September. They have been a steward in ensuring safety, quality and efficiency in all areas of their work, especially with respect to the production of the nonnuclear components for the Nation's nuclear weapons with NNSA. Honeywell's outstanding work has also provided an essential foundation for a continued partnership at the new KCRIMS facility and the company's ongoing role as a strong member of the local Kansas City community. I am deeply proud of the work the men and women on the Honeywell team carry out at the Kansas City Plant and of its central importance to our Nation's national security and I could not be more pleased to see them recognized for their work with this preeminent award.

MidwayUSA is a family-owned business located in Columbia, MO, that has been providing shooting, hunting and reloading supplies for over 30 years. The company, started by Larry Potterfield and his wife Brenda, exemplifies the ''Made in America'' motto by employing hundreds of Missourians who are themselves passionate about hunting and shooting, two activities that are centerpieces of Missouri's rich sportsman culture. The passion of Larry and Brenda shows in the quality of the work of their entire team. MidwayUSA has earned 98 percent customer retention, and a 93 percent customer satisfaction rating, both remarkable achievements. While MidwayUSA has progressed over time from taking orders by mail, then phone, and now via the internet, one thing that has not changed is its mission, ''To be the best-run business in America, for the benefit of our Customers.'' They are doing a great job accomplishing just this. In pursuit of that goal they have become ISO 9000 certified, won the Missouri Quality Award for Performance Excellence, and now they have been recognized with the 2009 Malcolm Baldrige National Quality Award. In growing from nothing more than a simple idea to one of the leading shooting supply retailers, MidwayUSA has shown what dedication to quality and performance, coupled with building an exceptionally committed, dedicated and skilled workforce, can produce in a business. I would like to congratulate the entire MidwayUSA team on their success.

These three companies, which are not just among Missouri's finest, but, as we now know, among our Nation's very best, have so much to be proud of. They embody the ''Show Me'' spirit when it comes to showing how a business should operate. Congratulations Heartland Health, Honeywell Federal Manufacturing & Technologies in Kansas City and MidwayUSA on winning the 2009 Malcolm Baldrige National Quality Award. I look forward to seeing what these companies and their employees accomplish next. I know it will be something great.●

TRIBUTE TO DR. ANTHONY CERNERA

● Mr. LIEBERMAN. Madam President, today I recognize the tremendous work of Dr. Anthony Cernera, a good friend and the very accomplished president of Sacred Heart University in Fairfield, CT. After 22 years of distinguished service to the Sacred Heart community, Tony is moving on to pursue new and different opportunities in Catholic education and beyond.

Since 1988, Dr. Cernera has led Sacred Heart with purpose and grace as he helped to fulfill the college's mission of preparing its students to be contributing members of the global community. He expanded this noble mission by increasing the school's reach and the opportunities it offers, all while preserving the rich Catholic intellectual tradition that forms its identity. He helped transform Sacred Heart from a small commuter school serving Fairfield and the neighboring community into a vibrant residential university, introducing new and innovative degree programs and course offerings to keep pace with an ever-changing world. The progress he achieved helped advance a value-driven education that will enrich the lives of all who receive it.

Dr. Cernera embodies the many deeply held values that Sacred Heart espouses. He does not see the world around him for what it is, but instead for what it can be. Where he sees promise, he leads through action. With the creation in 1992 of the Center for Christian-Jewish Understanding of Sacred Heart University, Dr. Cernera has striven for a world of greater interreligious dialogue, understanding and respect. As President of the International Federation of Catholic Universities, a federation of over 200 Catholic educational institutions around the world, Dr. Cernera has led at a global level, spreading the faith and values that define his life's work. In a world too rife with conflict and distrust, he has been a model member of the global community.

Dr. Cernera leaves behind a lasting legacy at Sacred Heart University, with an impact that reaches far beyond the halls on campus and that will touch many lives for a long time to come. I wish him and his wife Ruth my very best as they embark on the next great chapter of their lives.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:23 a.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 bills:

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

H.R. 628. An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

H.R. 4973. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

ENROLLED BILLS SIGNED

At 12:27 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1107. An act to enact certain laws relating to public contracts as title 41, United States Code, ''Public Contracts''.

H.R. 6473. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 6510. An act to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

At 12:47 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

ENROLLED BILL SIGNED

At 3:10 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. 2965. An act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUYE).

At 5:15 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6540. An act to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to

consider any unfair competitive advantage that an offeror may possess.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

At 6:00 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 81) 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.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

The message also announced that pursuant to section 5605 of the Patient Protection and Affordable Care Act (Public Law 111–148), and the order of the House of January 6, 2009, the Speaker appoints the following members on the part of the House of Representatives to the Commission on Key National Indicators: Dr. Stephen Heintz of New York, New York, and Dr. Marta Tienda of Princeton, New Jersey.

The message further announced that pursuant to section 306(k) of the Health Service Act (42 U.S.C. 242k), and the order of the House of January 6, 2009, the Speaker appoints the following member on the part of the House of Representatives to the National Committee on Vital and Health Statistics for a term of 4 years: Dr. Vickie M. Mays of Los Angeles, California.

At 7:09 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 3243. An act to require U.S. Customs and Border Patrol to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the ''First Lieutenant Robert Wilson Collins Post Office Building''.

The message also announced that the House has passed the following bill, with an amendment:

S. 2925. An act to establish a grant program to benefit victims of sex trafficking, and for other purposes.

ENROLLED BILLS SIGNED

At 7:20 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

At 7:49 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate 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.

ENROLLED BILL SIGNED

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

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILLS SIGNED

At 9:05 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany S. 2889, a bill to reauthorize the Surface Transportation Board, and for other purposes (Rept. No. 111–380).

Report to accompany S. 3302, a bill to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes (Rept. No. 111–381).

Report to accompany S. 3566, a bill to authorize certain maritime programs of the Department of Transportation, and for other purposes (Rept. No. 111–382).

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes.

S. 2982. A bill to combat international violence against women and girls.

S. 3798. A bill to authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum human standards of health, sanitation, and safety, and for other purposes.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with an amended preamble:

S.J. Res. 37. A joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Con. Res. 71. A concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CARDIN:

S. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in

chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 3424

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3914

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3914, a bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for such payments within 3 fiscal years.

S.J. RES. 37

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S.J. Res. 37, a joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

AMENDMENT NO. 4851

At the request of Mr. SESSIONS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 4851 intended to be proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4904

At the request of Mr. CORKER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4904 proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4913

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 4913 intended to be proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN:

S. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the current framework concerning the espionage statutes was designed to address classic spy cases involving persons who intended to aid foreign governments and harm the United States. The current framework traces its roots to the Espionage Act of 1917, which made it a crime to disclose defense information during wartime. The basic idea behind the legislation, which was upheld by the U.S. Supreme Court as constitutional in 1919, was to stop citizens from spying or interfering with military actions during World War I. The current framework was formed at a time when intelligence and national security information existed primarily in some tangible form, such as blueprints, photographs, maps, and other documents.

Our Nation, however, has witnessed dramatic changes to nearly every facet of our lives over the last 100 years, including technological advances which have revolutionized our information gathering abilities as well as the mediums utilized to communicate such information. Yet, the basic terms and structure of the espionage statutes have remained relatively unchanged since their inception. Moreover, issues have arisen in the prosecution and defense of criminal cases when the statutes have been applied to persons who may be disclosing classified information for purposes other than to aid a foreign government or to harm the United States. In addition, the statutes contain some terms which are outdated and do not reflect how information is classified by the Executive branch today.

Legal scholars and commentators have criticized the current framework, and over the years, some federal courts have as well. In 2006, after reviewing the many developments in the law and changes in society that had taken place since the enactment of the espionage statutes, one district court judge stated that ''the time is ripe for Congress'' to reexamine them. *United States* v. *Rosen*, 445 F. Supp. 2d 602, 646 E.D. Va. 2006, Ellis, J. Nearly 20 years earlier in the *Morison* case, one federal appellate judge stated that ''[i]f one thing is clear, it is that the Espionage Act statutes as now broadly drawn are unwieldy and imprecise instruments for prosecuting government 'leakers' to the press as opposed to government 'moles' in the service of other countries.'' That judge also stated that ''carefully drawn legislation'' was a ''better long-term resolution'' than judicial intervention. See *United States* v. *Morison*, 844 F.2d 1057, 1086, 4th Cir. 1988.

As Chairman of the Senate Judiciary's Terrorism and Homeland Security Subcommittee, I chaired a Subcommittee hearing on May 12, 2010, entitled ''The Espionage Statutes: A Look Back and A Look Forward.'' At that Subcommittee hearing, I questioned a number of witnesses, which included witnesses from academia as well as former officials from the intelligence and law enforcement communities, about how well the espionage statutes have been working. Since that hearing, I have been closely and carefully reviewing these statutes, particularly in the context of recent events. I am now convinced that changes in technology and society, combined with statutory and judicial changes to the law, have rendered some aspects of our espionage laws less effective than they need to be to protect the national security. I also believe that we need to enhance our ability to prosecute spies as well as those who make unauthorized disclosures of classified information if we add to the existing statutes. We don't need an Official State Secrets Act, and we must be careful not to chill protected First Amendment activities. We do, however, need to do a better job of preventing unauthorized disclosures of classified information that can harm the United States, and at the same time we need to ensure that public debates continue to take place on important national security and foreign policy issues.

As a result, I am introducing the Espionage Statutes Modernization Act, ESMA, of 2010. This legislation makes important improvements to the espionage statutes to make them more effective and relevant in the 21st century. This legislation is narrowly-tailored and balanced, and will enable the government to use a separate criminal statute to prosecute government employees who make unauthorized disclosures of classified information in violation of the nondisclosure agreements

they have entered, irrespective of whether they intend to aid a foreign government or harm the United States.

This legislation is not designed to make it easier for the government to prosecute the press, to chill First Amendment freedoms, or to make it more difficult to expose government wrongdoing. In fact, the proposed legislation promotes the use of Federal whistleblower statutes and regulations to report unlawful and other improper conduct. Unauthorized leaks of classified information, however, are harmful to the national security and could endanger lives. Thus, in addition to proposing important refinements to the espionage statutes, this legislation will deter unauthorized leaks of classified information by government employees who knowingly and intentionally violate classified information nondisclosure agreements.

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. 4051

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 ''The Espionage Statutes Modernization Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As of 2010, the statutory framework with respect to the espionage statutes is a compilation of statutes that began with Act of June 15, 1917 (40 Stat. 217, chapter 30)(commonly known as the ''Espionage Act of 1917''), which targeted classic espionage cases involving persons working on behalf of foreign nations.

(2) The statutory framework was formed at a time when intelligence and national security information existed primarily in a tangible form, such as blueprints, photographs, maps, and other documents.

(3) Since 1917, the United States has witnessed dramatic changes in intelligence and national security information, including technological advances that have revolutionized information gathering abilities as well as the mediums used to communicate such information.

(4) Some of the terms used in the espionage statutes are obsolete and the statutes do not fully take into account the classification levels that apply to national security information in the 21st century.

(5) In addition, the statutory framework was originally designed to address classic espionage cases involving persons working on behalf of foreign nations. However, the national security of the United States could be harmed, and lives may be put at risk, when a Government officer, employee, contractor, or consultant with access to classified information makes an unauthorized disclosure of the classified information, irrespective of whether the Government officer, employee, contractor, or consultant intended to aid a foreign nation or harm the United States.

(6) Federal whistleblower protection statutes and regulations that enable Government officers, employees, contractors, and consultants to report unlawful and improper conduct are appropriate mechanisms for reporting such conduct.

(7) Congress can deter unauthorized disclosures of classified information and thereby protect the national security by—

(A) enacting laws that improve, modernize, and clarify the espionage statutes and make the espionage statutes more relevant and effective in the 21st century in the prosecution of persons working on behalf of foreign powers;

(B) promoting Federal whistleblower protection statutes and regulations to enable Government officers, employees, contractors, or consultants to report unlawful and improper conduct; and

(C) enacting laws that separately punish the unauthorized disclosure of classified information by Government officers, employees, contractors, or consultants who knowingly and intentionally violate a classified information nondisclosure agreement, irrespective of whether the officers, employees, contractors, or consultants intend to aid a foreign power or harm the United States.

SEC. 3. CRIMES.

(a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended—

(1) in section 793—

(A) in the section heading, by striking ''**OR LOSING DEFENSE INFORMATION**'' and inserting ''**OR, LOSING NATIONAL SECURITY INFORMATION**'';

(B) by striking ''the national defense'' each place it appears and inserting ''national security'';

(C) by striking ''foreign nation'' each place it appears and inserting ''foreign power'';

(D) in subsection (b), by inserting ''classified information, or other'' before ''sketch'';

(E) in subsection (c), by inserting ''classified information, or other'' before ''document'';

(F) in subsection (d), by inserting ''classified information, or other'' before ''document'';

(G) in subsection (e), by inserting ''classified information, or other'' before ''document'';

(H) in subsection (f), by inserting ''classified information,'' before ''document''; and

(I) in subsection (h)(1), by striking ''foreign government'' and inserting ''foreign power'';

(2) in section 794—

(A) in the section heading, by striking ''**GATHERING**'' and all that follows and inserting ''**GATHERING OR DELIVERING NATIONAL SECURITY INFORMATION TO AID FOREIGN POWERS**''; and

(B) in subsection (a)—

(i) by striking ''foreign nation'' and inserting ''foreign power'';

(ii) by striking ''foreign government'' and inserting ''foreign power'';

(iii) by inserting ''classified information,'' before ''document'';

(iv) by striking ''the national defense'' and inserting ''national security''; and

(v) by striking ''(as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978)'';

(3) in section 795(a), by striking ''national defense'' and inserting ''national security'';

(4) in section 798—

(A) in subsection (a), by striking ''foreign government'' each place it appears and inserting ''foreign power''; and

(B) in subsection (b)—

(i) by striking the first undesignated paragraph (relating to the term ''classified information''); and

(ii) by striking the third undesignated paragraph (relating to the term ''foreign government''); and

(5) by adding at the end the following:

''§ 800. Definitions

''In this chapter—

''(1) the term 'classified information' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.);

''(2) the term 'foreign power' has the meaning given the term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

''(3) the term 'national security' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of section for chapter 37 of title 18, United States Code, is amended—

(1) by striking the item relating to section 793 and inserting the following:

''793. Gathering, transmitting, or losing national security information.'';

(2) by striking the item relating to section 794 and inserting the following:

''794. Gathering or delivering national security information to aid foreign powers.'';

and

(3) by adding at the end the following:

''800. Definitions.''.

SEC. 4. VIOLATION OF CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following:

''§ 1925. Violation of classified information nondisclosure agreement

''(a) DEFINITIONS.—In this section—

''(1) the term 'classified information' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.); and

''(2) the term 'covered individual' means an officer, employee, contractor, or consultant of an agency of the Federal Government who, by virtue of the office, employment, position, or contract held by the individual, knowingly and intentionally agrees to be legally bound by the terms of a classified information nondisclosure agreement.

''(b) OFFENSE.—

''(1) IN GENERAL.—Except as otherwise provided in this section, it shall be unlawful for a covered individual to intentionally disclose, deliver, communicate, or transmit classified information, without the authorization of the head of the Federal agency, or an authorized designee, knowing or having reason to know that the disclosure, delivery, communication, or transmission of the classified information is a violation of the terms of the classified information nondisclosure agreement entered by the covered individual.

''(2) PENALTY.—A covered individual who violates paragraph (1) shall be fined under this title, imprisoned for not more than 5 years, or both.

''(c) WHISTLEBLOWER PROTECTION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual in accordance with a Federal whistleblower protection statute or regulation applicable to the Federal agency of which the covered individual is an officer, employee, contractor, or consultant shall not be a violation of subsection (b)(1).

''(d) REBUTTABLE PRESUMPTION.—For purposes of this section, there shall be a rebuttable presumption that information has been properly classified if the information has been marked as classified information in accordance with Executive Order 12958 (60 Fed. Reg. 19825) or a successor or predecessor to the order.

''(e) DEFENSE OF IMPROPER CLASSIFICATION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual shall not violate subsection (b)(1) if the covered individual proves by clear and convincing evidence that at the time the information was originally

classified, no reasonable person with original classification authority under Executive Order 13292 (68 Fed. Reg. 15315), or any successor order, could have identified or described any damage to national security that reasonably could be expected to be caused by the unauthorized disclosure of the information.

''(f) EXTRATERRITORIAL JURISDICTION.—There is jurisdiction over an offense under this section if—

''(1) the offense occurs in whole or in part within the United States;

''(2) regardless of where the offense is committed, the alleged offender is—

''(A) a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)));

''(B) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

''(C) a stateless person whose habitual residence is in the United States;

''(3) after the offense occurs, the offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States; or

''(4) an offender aids or abets or conspires with any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (b)(1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 93 of title 18, United States Code, is amended by adding at the end the following:

''1925. Violation of classified information nondisclosure agreement.''.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission, shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to a person convicted of an offense under section 1925 of title 18, United States Code, as added by this Act.

(b) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission shall ensure that the sentencing guidelines account for all relevant conduct, including—

(1) multiple instances of unauthorized disclosure, delivery, communication, or transmission of the classified information;

(2) the volume of the classified information that was disclosed, delivered, communicated, or transmitted;

(3) the classification level of the classified information;

(4) the harm to the national security of the United States that reasonably could be expected to be caused by the disclosure, delivery, communication, or transmission of the classified information; and

(5) the nature and manner in which the classified information was disclosed, delivered, communicated, or transmitted.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANTWELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111–5, supra; which was ordered to lie on the table.

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANTWELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

''(c) REASONABLE SERVICE CHARGES.—

''(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

''(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

''(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

''(2) LIMITATION ON ACCOUNTS.—

''(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

''(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.''.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page ____ of the amendment, between lines ____ and ____, insert the following:

(____) PRESIDENTIAL CERTIFICATION REJECTING INTERRELATIONSHIP BETWEEN STRATEGIC OFFENSIVE AND STRATEGIC DEFENSIVE ARMS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President rejects the following recognition stated in the preamble to the New START Treaty: ''Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties''.

(____) PRESIDENTIAL CERTIFICATION REGARDING ADDITIONAL GROUND-BASED INTERCEPTORS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President intends to continue to improve and modernize the United States ground-based midcourse defense system, including—

(A) two-stage interceptors that could be deployed in Europe if the Iranian ICBM threat emerges before Phases 3 and 4 of the Phased Adaptive Approach are ready; and

(B) three stage ground-based interceptors in the United States, including additional missiles for testing and emergency deployment, as necessary.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 2 of the amendment, beginning on line 3, strike ''that—'' and all that follows through line 7 and insert ''that the Department of Defense will maintain not fewer than 450 deployed and non-deployed ICBM launchers silos for the duration of the treaty.''

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

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

(11) RUSSIAN COOPERATION ON IRAN.—(A) In giving its advice and consent to ratification of the New START Treaty, the Senate has accepted and relied upon the representation

of President Barack Obama, including the statement on November 18, 2010, that ''[t]he New START treaty is also a cornerstone of our relations with Russia'' for the reason that ''Russia has been fundamental to our efforts to put strong sanctions in place to put pressure on Iran to deal with its nuclear program''. Accordingly, the advice and consent of the Senate to ratification of the New START Treaty is conditioned on the expectation that the Russian Federation will cooperate fully with United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability.

(B) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the Russian Federation is in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will—

(I) transfer to Iran the S-300 air defense system or other advanced weapons systems or any parts thereof; or

(II) transfer such items to a third party which will in turn transfer such items to Iran;

(iii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran goods, services, or technology that contribute to the advancement of the nuclear or missile programs of the Government of Iran; and

(iv) the Government of the Russian Federation has assured the United States that it will support efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program.

(C) Each annual report submitted pursuant to paragraph (10) shall include a certification by the President that between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year—

(i) the Russian Federation was in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran the S-300 air defense system or other advanced weapons systems;

(iii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran goods, services, or technology that contribute to the advancement of the nuclear weapons or missile programs of Iran; and

(iv) the Russian Federation has supported efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program, and has not sought to weaken initiatives aimed at increasing such pressure.

(D) If in any annual report submitted pursuant to paragraph (10) the President fails to make the certification described in subparagraph (C), then the President shall—

(i) consult with the Senate regarding the implications of the Russian Federation's actions for the national security interests of the United States;

(ii) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of persuading the Russian Federation to fully support United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability; and

(iii) submit a report to the Senate promptly thereafter, detailing—

(I) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(II) how the United States will redress the impact of the actions of the Russian Federation on the national security interests of the United States.

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

(14) RUSSIAN COOPERATION ON IRAN.—It is the sense of the Senate that failure by the Russian Federation to cooperate with United States and international efforts to prevent Iran from developing a nuclear weapons capability would lead to an increased threat to the United States and its allies, undermining the long-term foundation of the New START Treaty.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 21, 2010 at 2:30 p.m.

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

ORDER OF PROCEDURE

Mr. KERRY. Madam President, I ask unanimous consent to proceed as in legislative session and as in morning business to process some cleared legislative items.

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

FEDERAL WATER POLLUTION CONTROL ACT

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 715, S. 3481.

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

The assistant legislative clerk read as follows:

A bill (S. 3481) to amend the Federal Water Pollution Control Act to clarify Federal responsibility for storm water pollution.

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

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

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

The amendment (No. 4917) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

''(c) REASONABLE SERVICE CHARGES.—

''(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

''(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

''(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

''(2) LIMITATION ON ACCOUNTS.—

''(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

''(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.''.

The bill (S. 3481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

APPLICATION OF CERTAIN ENERGY EFFICIENCY STANDARDS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. KERRY. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5470, received from the House and at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 5470) to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

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

Mr. KERRY. Madam President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (H.R. 5470) was ordered to a third reading, was read the third time, and passed.

INDIAN PUEBLO CULTURAL CENTER CLARIFICATION ACT

Mr. KERRY. Madam President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Calendar No. 720, H.R. 4445.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4445) to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

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

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

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

The bill (H.R. 4445) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING LEASES OF UP TO 99 YEARS FOR LANDS HELD IN TRUST FOR OHKAY OWINGEH PUEBLO

Mr. KERRY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 701, S. 3903.

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

The legislative clerk read as follows:

A bill (S. 3903) to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OHKAY OWINGEH PUEBLO LEASING AUTHORITY.

[(a) AUTHORIZATION FOR 99-YEAR LEASES.—**]**Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting ''and lands held in trust for Ohkay Owingeh Pueblo'' after ''of land on the Devils Lake Sioux Reservation,''.

[(b) APPLICATION.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.**]**

Mr. KERRY. Madam President, I further ask that the committee-reported amendments be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 3903), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OHKAY OWINGEH PUEBLO LEASING AUTHORITY.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting ''and lands held in trust for Ohkay Owingeh Pueblo'' after ''of land on the Devils Lake Sioux Reservation,''.

SIGNING AUTHORITY

Mr. KERRY. Madam President, I ask unanimous consent that Senator WEBB be authorized to sign any duly enrolled bills or joint resolutions beginning December 27 through 11:59 a.m., Monday, January 3, 2011.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR WEDNESDAY, DECEMBER 22, 2010

Mr. LEVIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., on Wednesday, December 22; 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; that following any leader remarks, the Senate proceed to executive session and resume consideration of the New START treaty; and finally, I ask that the time during adjournment or period of morning business count postcloture.

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

PROGRAM

Mr. LEVIN. Madam President, cloture was invoked on the New START treaty today. We hope we will be able to reach an agreement to yield back some of the postcloture debate time. We will also continue to work on an agreement to consider the 9/11 health legislation and a number of other executive nominations.

We also would hope that we can complete work on the Defense authorization bill tomorrow morning as well, early in the day, hopefully, right around 9 o'clock.

Senators will be notified when any votes are scheduled.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LEVIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 11:05 p.m., adjourned until Wednesday, December 22, 2010, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, December 21, 2010:

THE JUDICIARY

BENITA Y. PEARSON, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

WILLIAM JOSEPH MARTINEZ, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

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.

EXTENSIONS OF REMARKS

TRIBUTE TO IRVIN B. NATHAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. PELOSI. Madam Speaker, I rise today to express the appreciation of the entire House of Representatives to Irvin Nathan for his service and commitment as our General Counsel.

Since beginning his tenure more than three years ago—taking his place as the sixth individual to serve as House General Counsel—Mr. Nathan helped assemble and supervise a highly competent and professional staff. He successfully and actively maintained the General Counsel's Office as a trusted, non-partisan resource. Through their hard work and achievements, he and his office have earned the respect of Members on both sides of the aisle.

Under Mr. Nathan's leadership, the General Counsel's Office provided invaluable assistance and advice to the House and its Members, Officers and Committees in connection with a broad range of legal matters. He defended Members and other House employees and entities in judicial proceedings at the trial and appellate levels; responded to deposition, trial, grand jury and administrative subpoenas; and advised Members and Committees in connection with their interactions with both private and other governmental entities.

Many House Committees and Subcommittees, in particular, have come to rely on Mr. Nathan's expertise and guidance in connection with their investigative and oversight activities.

During the past three years, Mr. Nathan has also played a significant role in safeguarding the legal and institutional interests of the House, and in addressing specific challenges to the House's interests and prerogatives. In particular, his work vindicated the House's congressional subpoena authority in the landmark case of Committee on the Judiciary v. Miers.

All Members of the House know that Irvin Nathan will continue his stellar work as Attorney General for the District of Columbia. We know that the District will benefit from his counsel, wisdom, and guidance.

On behalf of the House of Representatives, I express my deepest gratitude and thanks to Irvin Nathan for his dedication to the House, and extend our very best wishes to him in the future.

RECOGNITION OF MIRIAM AND BERNIE YENKIN FOR AWARD OF DISTINGUISHED SERVICE

HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KILROY. Madam Speaker, I rise today to recognize Miriam and Bernie Yenkin who have tirelessly devoted their lives to supporting education, culture, history and opportunity within the Jewish community of central Ohio.

Miriam and Bernie are the 2010 recipients of the Columbus Jewish Federation Ben M. Mandelkorn Award of Distinguished Service in honor of their 50 years of leadership and dedication to the Columbus Jewish community.

The Yenkins' have received numerous awards and recognitions over the years for their service to the Jewish community here and around the world.

As officers and board members of several local organizations, they are involved in all facets of promoting and preserving Jewish culture and history in central Ohio. In addition to serving as President of the Federation, they have been involved with the Columbus Jewish Day School, Columbus Torah Academy, Agudas Achim, the Jewish Community Center, The Ohio State University Hillel, Soviet Jewry, the Jewish Education Service of North America, the Interdisciplinary Center in Herzilya, United Jewish Communities and the Columbus Jewish Historical Society.

Members of the Columbus Jewish community often credit their own volunteer involvement to Miriam and Bernie's guidance and encouragement.

I ask my colleagues in the House of Representatives to join me in honoring Miriam and Bernie Yenkin for their extraordinary service to the Jewish community of Columbus.

HONORING NORTH ALLEGHENY HIGH SCHOOL AS PENNSYLVANIA STATE FOOTBALL CHAMPIONS

HON. JASON ALTMIRE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ALTMIRE. Madam Speaker, it is my privilege to recognize and congratulate North Allegheny High School on winning the Pennsylvania Interscholastic Athletic Association's (PIAA) Class AAAA title. On December 18, 2010, the North Allegheny Tigers defeated the defending state champions, the LaSalle College Explorers, to earn the 2010 championship title.

LaSalle College of Philadelphia was powerless against the Tigers' outstanding running game, despite the fact that an injury kept star running back, Alex Papson, on the sideline for North Allegheny's win. Before being sidelined by a dislocated collarbone in the Western Pennsylvania Interscholastic Athletic League (WPIAL) Championship, Papson rushed for more than 2,000 yards this season. He is one of only six running backs to ever run for over 4,000 career yards in WPIAL history.

During the game, running back Matt Steinbeck led North Allegheny with 120 rushing yards on 20 carries, including a 27-yard touchdown run in the second quarter. In total, North Allegheny rushed for 220 yards on 44 carries, including a rushing touchdown in each of the first three quarters. With La Salle unable to score, the title game at Hershey Park Stadium ended with a score of 21–0.

It was a remarkable victory for North Allegheny, as they became only the second team to win the Class AAAA title with a shutout. To complete the 2010 season, the Tigers finish up with a 15–1 record, adding a WPIAL and PIAA championship in Class AAAA to the North Allegheny trophy case.

I would also like to pay tribute to Coach Art Walker, Jr. for leading his team to victory during the 20th anniversary of North Allegheny's first PIAA title. Mr. Walker has been at North Allegheny for six seasons. Before that, he spent seven seasons at Central Catholic, where he also won a PIAA Class AAAA title.

It is with great pride that I recognize the school district where I live and where my daughters go to school for its tremendous accomplishment. On behalf of my family and the Fourth District of Pennsylvania, I extend our congratulations to the North Allegheny Tigers for earning the title of State Champions.

RECOGNITION OF CHARLES FEESER FOR HIS EXCELLENCE IN TEACHING AWARD

HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KILROY. Madam Speaker, I rise today to honor Charles Feeser for being selected as a winner of the first annual Excellence in Teaching Award. I applaud his extraordinary service to Benjamin Banneker High School, the District of Columbia, and to each and every student that has passed through his classroom.

Praise and accolades fall short when describing the difference an inspiring teacher makes in a young person's life. Mr. Feeser's effectiveness comes from his earnest love of education. His lessons radiate beyond the classroom, teaching students to aspire to and achieve at high levels throughout their high school and college coursework.

Mr. Feeser has his students use nametags that refer to themselves as "Mr." and "Ms." instead of their first names. The practice teaches students that there are rituals that transcend the classroom. That awareness gives students the tools they can use in the larger public sphere. Mr. Feeser creates a community within the classroom. He lectures less, opting to facilitate discussion among students instead. More than a teacher, he is a mentor and partner in the learning process. He takes his craft seriously, and expects the same from those who share the classroom with him. It comes as no surprise that his students consistently win awards, scholarships, and develop a lifelong appreciation for the arts of theater, painting, poetry and prose.

At Benjamin Banneker High School, where he teaches English, art history, and serves as

the English Department Chair, Mr. Feeser has dedicated his time beyond normal school hours. He is involved in afterschool activities, serving as the drama club sponsor and organizing an annual Poetry Out Loud competition that routinely sends students to prestigious national competitions. These connections enliven the school and Mr. Feeser's commitment to Banneker extends to all students, not just those enrolled in his classes.

Before coming to the District of Columbia Public Schools, Mr. Feeser taught humanities and history at Columbus Alternative High School in central Ohio. Teaching in two urban public schools, his ability to identify, develop, and encourage talent in his students has shattered the stereotypes about public education. Even though he has spent the last 10 years teaching in the District of Columbia, Mr. Feeser is still well remembered in my district by parents and students who took his courses at Columbus Alternative High School. It is with great pride that I rise to honor Charles Feeser for his excellence as an educator. I look forward to his continued success with the District of Columbia Schools.

INTRODUCTION OF H. RES. 1777, A RESOLUTION RAISING AWARENESS OF SCHOOL PUSHOUT AND PROMOTING DIGNITY IN SCHOOLS

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MURPHY of Connecticut. Madam Speaker, I rise today in proud support of H. Res. 1777, a resolution raising awareness of school pushout and promoting dignity in schools.

I want to start by thanking my colleagues Representatives BOBBY SCOTT and DANNY DAVIS for partnering with me on this effort and for their long and esteemed records of standing up for children and civil rights.

I also want to thank the parents, teachers, students, school administrators, advocates and academics from across Connecticut whose expertise and input were essential in drafting this resolution.

We are introducing this resolution for the millions of students who are pushed out of school each year at the hands of harsh and exclusionary zero-tolerance school discipline policies.

We are introducing it for the 14-year boy with Aspergers syndrome from Richardson, Texas who was given a $364 police citation for swearing in class.

We are introducing it for the six-year-old student of Newark, Delaware who was so excited about joining the Cub Scouts that he brought his camping utensil to school. Because it had a small knife, he was suspended and referred to an alternative school for 5 days.

And we are introducing the resolution for the 16-year-old of New York City who broke school policy by using a cell phone. He was subsequently detained and beaten by school police officers, rushed to the emergency room, and, outrageously, charged with disorderly conduct. Fortunately for the boy and his family, those charges were later dropped.

Madam Speaker, unfortunately, those stories are not random acts of irresponsible school administration. They are representative of a growing trend.

Now, before I go any further, it is important to recognize that there are many cases where the removal of a student from school is absolutely necessary. When a student poses a real safety threat to teachers or his or her fellow students, suspension or expulsion is warranted.

Yet too often, kids in this country are being excluded from school at a growing rate for unjustifiable reasons.

According to the Department of Education, over 3 million students are suspended and over 100,000 are expelled from school each year often, for minor offenses. Hundreds of others are arrested or sent to alternative schools for incidents historically dealt with within school walls.

Disturbingly, African American, Hispanic and disabled students are disproportionately impacted.

As you can imagine, kicking youth out of the classroom without addressing underlying issues for their behavior doesn't help that child, and usually doesn't improve the learning climate of the school.

In fact, the American Psychological Association has found that suspension and expulsion negatively impact school-wide achievement and increase the risk that excluded students fall behind academically, become alienated from school, drop out, and become involved with the juvenile and adult criminal justice systems.

In other words, these harsh practices are pushing kids out of the classroom and creating what has been widely dubbed as a ''school-to-prison pipeline.''

In 2007 in my own home state of Connecticut, 89% of the 16 and 17-year olds involved with the criminal justice system had been suspended or expelled from school. While this may be attributable to many factors, common sense will tell you that when a kid is expelled from school, home alone without supervision, he's likely to keep getting into trouble.

Fortunately, there is also great work being done in Connecticut and across the country to address school pushout and our resolution commends those efforts.

Counterproductive zero-tolerance policies are being replaced with evidenced-based behavior management and discipline practices. Schools are partnering with community leaders and services to better support at-risk students. Parent engagement is being prioritized and states are passing laws limiting the use of exclusionary discipline practices.

These efforts are producing real results in decreasing behavioral incidents and improving school climate and student achievement.

Yet what I've heard time and time again is that in order to be successful, Congress needs to support and help expand these efforts.

We need to help teachers and administrators who aren't receiving the training they want and need to effectively manage a classroom.

And we must support efforts to adopt evidenced based practices to improve student engagement and school safety by providing both effective technical assistance and flexibility for our schools.

Most importantly, we have to acknowledge this rising problem in our nation's schools and commit to working together to stop it.

I urge my colleagues to join me in supporting the resolution.

RECOGNIZING WILLIAM D. JAMES, MD, FAAD, INCOMING PRESIDENT OF THE AMERICAN ACADEMY OF DERMATOLOGY

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. FATTAH. Madam Speaker, I rise today to congratulate Dr. William James, a University of Pennsylvania dermatologist who recently took office as President of the American Academy of Dermatology. He will hold office for one year and also will hold the same position for the American Academy of Dermatology Association.

After beginning his academic career at the U.S. Military Academy at West Point, Dr. James earned his medical degree from Indiana University School of Medicine. He completed a medical internship at Walter Reed Army Medical Center, in Washington, DC, and his residency in dermatology at the former Letterman Army Medical Center in San Francisco. He is the Paul R. Gross professor and vice chair of the department of dermatology at the University of Pennsylvania in Philadelphia. He also serves as the residency and fellowship program director.

An active member of the American Academy of Dermatology, Dr. James has served as a member of the board of directors, the council on member services, and numerous task forces and committees. He is the past chief of dermatology service at Walter Reed Army Medical Center. He has authored more than 310 publications, including co-authorship of the last three editions of Andrews' Diseases of the Skin. Additionally he served as founding editor-in-chief of the dermatology section of Emedicine.com, a clinical reference developed by WebMD. He lives in Bryn Mawr, Pennsylvania, with his wife, Ann. They have two children and are expecting a grandchild in early 2011.

RITA PETERSON

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Rita Peterson for her outstanding service to our community.

Rita Peterson has been co-owner and Vice president of her family owned appraisal business since 1977. The business has grown from one appraiser and a part time secretary to six full time appraisers and three administrative staff. They began primarily appraising operating farms and ranches throughout the state, and now deal with more complex issues involving eminent domain, conservation easement valuations and federal land exchanges.

While running and expanding her business, Rita still found time to become involved in the community. Most notable has been her involvement with the Senior Resource Center since 1982. Her vision has been the key to the

$8.7 million dollar expansion and renovation project which includes a new 17,000 square foot Adult Day building.

I extend my deepest congratulations to Rita Peterson for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

SPEECH OF

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes:

Mr. HERGER. Mr. Chair, Title VII of this legislation provides for the extension of a number of tax provisions that expired at the end of 2009, or were set to expire at the end of 2010. I understand an effort was made to limit this title to what are known as the ''traditional'' tax extenders, with the general test being whether or not an expiring provision had been extended in the past. As a result of this decision, several provisions that expired for the first time at the end of 2009, and that had been included in previous drafts of tax extenders legislation, are not extended in this bill. One of these, the Section 45 production tax credit for electricity produced at open-loop biomass facilities placed in service before October 22, 2004, is important to a number of energy producers in the district I represent. Under current law, these facilities were permitted to claim the production tax credit for 5 years, ending in 2009. Previous tax extension proposals included a 2-year extension of this credit period. As a matter of simple fairness, I believe it is only right that these biomass producers should be able to claim the production tax credit for the same 10-year period afforded to the other renewable electricity producers covered under Section 45.

It is my understanding that no judgment was made on the policy merits of individual expiring tax provisions, and therefore no negative inference should be drawn against provisions that are not included in this legislation simply because they had not been extended in the past. I look forward to working with other members of the Ways and Means Committee in the 112th Congress to review these provisions and determine which ones are worthy of extension.

HONORING BYRON LEYDECKER

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise with my colleague Congressman GEORGE MILLER today to recognize the great accomplishments of our friend Byron Leydecker, who recently announced that he will conclude operation of Friends of the Trinity River, the organization he founded 18 years ago and has led ever since.

The Trinity River flows through mountains in coastal northern California and is the largest tributary of the Klamath River. These rivers supported huge bountiful populations of both Chinook and Coho salmon, steelhead and other fish that sustained Native Americans for millennia and visitors from other continents for the past two centuries. The impacts of ill-advised and poorly managed development had devastated both the Trinity and the Klamath. Thanks in large part to Byron, the Trinity is on its way to recovery.

He pushed the Department of the Interior to develop and then implement the historic 2000 Trinity Record of Decision, he has worked tirelessly ever since to ensure that the Trinity restoration program goes forward as intended, and he has pushed the agencies to follow the science.

Byron has led an active and vigorous organization over the years, devoting his time, energy, and financial resources to make a real difference in the direction of the Trinity River restoration program, which is today one of the leading efforts of its kind.

Byron and FOTR have worked with the usual alphabet soup of government agencies, as well as tribes, fishermen, and water and power interests, to develop and implement the restoration plan. Byron has always been consistent and persistent, cooperative when possible and tough when needed.

Thanks to Byron and the work of FOTR, the Trinity River is now in better shape than at any time since the 1960s—we have seen increased flows, a healthier fishery, and a stronger scientific foundation for its management.

While there will always be snags and eddies in these undertakings, the successful restoration of the Trinity River will serve as a national model of a restored river below a Federal dam. The Trinity River could have no better friend than Byron Leydecker. We are grateful to Byron for his leadership, and thank him for all his work on behalf of healthy rivers and sustainable fisheries.

AN EXTRAORDINARY SPEECH

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. WILSON of South Carolina. Madam Speaker, I submit the following for the RECORD:

What follows is an abridged transcript from The American Thinker by Alan Fraser of an extraordinary speech given by Lieutenant General John F. Kelly USMC on November 13, 2010. What renders it so is that General Kelly's son, First Lieutenant Robert Michael Kelly, was killed in action in Sangin, Afghanistan only four days before Lt. Gen. Kelly gave this speech. Lt. Gen. Kelly's eldest child is also a U.S. Marine.

The American Thinker wrote earlier about this incident to which the general refers in his speech of Corporal Jonathan Yale and Lance Corporal Jordan Haerter. Recall that it occurred at a time when it appeared that our troop surge in Iraq had perhaps stabilized what had been for several years a horrific situation. Now think about how that troop surge—in fact, the entire war—would have been viewed had fifty of our Marines been massacred in their sleep on that April night in 2008. And finally, as we are in the season, it's good to remind ourselves that it is only because of men like Yale, Haerter, Gen. Kelly, and his brave sons that we are able to celebrate our holidays and not those of our enemies.

[SEMPER FI SOCIETY OF ST. LOUIS SPEECH]

(By LTG Kelly on Nov. 13, 2010)

Nine years ago two of the four commercial aircraft took off from Boston, Newark, and Washington. Took off fully loaded with men, women and children—all innocent, and all soon to die. These aircraft were targeted at the World Trade Towers in New York, the Pentagon, and likely the Capitol in Washington, D.C. . . . Three found their mark. No American alive old enough to remember will ever forget exactly where they were, exactly what they were doing, and exactly who they were with at the moment they watched the aircraft dive into the World Trade Towers on what was, until then, a beautiful morning in New York City. Within the hour 3,000 blameless human beings would be vaporized, incinerated, or crushed in the most agonizing ways imaginable. The most wretched among them—over 200—driven mad by heat, hopelessness, and utter desperation leapt to their deaths from 1,000 feet above Lower Manhattan. We soon learned hundreds more were murdered at the Pentagon, and in a Pennsylvania farmer's field.

Once the buildings had collapsed and the immensity of the attack began to register most of us had no idea of what to do, or where to turn. As a nation, we were scared like we had not been scared for generations. Parents hugged their children to gain as much as to give comfort. Strangers embraced in the streets stunned and crying on one anther's shoulders seeking solace, as much as to give it. Instantaneously, American patriotism soared not ''as the last refuge'' as our national-cynical class would say, but in the darkest times Americans seek refuge in family, and in country, remembering that strong men and women have always stepped forward to protect the nation when the need was dire—and it was so God awful dire that day—and remains so today.

There was, however, a small segment of America that made very different choices that day . . . actions the rest of America stood in awe of on 9/11 and every day since. The first were our firefighters and police, their ranks decimated that day as they ran towards—not away from—danger and certain death. They were doing what they'd sworn to do—''protect and serve''—and went to their graves having fulfilled their sacred oath. Then there was your Armed Forces, and I know I am a little biased in my opinion here, but the best of them are Marines. Most wearing the Eagle, Globe and Anchor today joined the unbroken ranks of American heroes after that fateful day not for money, or promises of bonuses or travel to exotic liberty ports, but for one reason and one reason alone; because of the terrible assault on our way of life by men they knew must be killed and an extremist ideology that must be destroyed. A plastic flag in their car window was not their response to the murderous assault on our country. No, their response was a commitment to protect the nation swearing an oath to their God to do so, to their deaths. When future generations ask why America is still free and the heyday of Al Qaeda and their terrorist allies was counted in days rather than in centuries as the extremists themselves predicted, our hometown heroes—soldiers, sailors, airmen, Coast

Guardsmen, and Marines—can say, ''because of me and people like me who risked all to protect millions who will never know my name.''

As we sit here right now, we should not lose sight of the fact that America is at risk in a way it has never been before. Our enemy fights for an ideology based on an irrational hatred of who we are. Make no mistake about that no matter what certain elements of the ''chattering class'' relentlessly churn out. We did not start this fight, and it will not end until the extremists understand that we as a people will never lose our faith or our courage. If they persist, these terrorists and extremists and the nations that provide them sanctuary, they must know they will continue to be tracked down and captured or killed. America's civilian and military protectors both here at home and overseas have for nearly nine years fought this enemy to a standstill and have never for a second ''wondered why.'' They know, and are not afraid. Their struggle is your struggle. They hold in disdain those who claim to support them but not the cause that takes their innocence, their limbs, and even their lives. As a democracy—''We the People''—and that by definition is every one of us—sent them away from home and hearth to fight our enemies. We are all responsible. I know it doesn't apply to those of us here tonight but if anyone thinks you can somehow thank them for their service, and not support the cause for which they fight—America's survival—then they are lying to themselves and rationalizing away something in their lives, but, more importantly, they are slighting our warriors and mocking their commitment to the nation.

Since this generation's ''day of infamy'' the American military has handed our ruthless enemy defeat-after-defeat but it will go on for years, if not decades, before this curse has been eradicated. We have done this by unceasing pursuit day and night into whatever miserable lair Al Qaeda, the Taliban, and their allies, might slither into to lay in wait for future opportunities to strike a blow at freedom. America's warriors have never lost faith in their mission, or doubted the correctness of their cause. They face dangers every day that their countrymen safe and comfortable this night cannot imagine. But this has always been the case in all the wars our military have been sent to fight. Not to build empires, or enslave peoples, but to free those held in the grip of tyrants while at the same time protecting our nation, its citizens, and our shared values. And, ladies and gentlemen, think about this, the only territory we as a people have ever asked for from any nation we have fought alongside, or against, since our founding, the entire extent of our overseas empire, as a few hundred acres of land for the 24 American cemeteries scattered around the globe. It is in these cemeteries where 220,000 of our sons and daughters rest in glory for eternity, or are memorialized forever because their earthly remains are lost forever in the deepest depths of the oceans, or never recovered from far flung and nameless battlefields. As a people, we can be proud because billions across the planet today live free, and billions yet unborn will also enjoy the same freedom and a chance at prosperity because America sent its sons and daughters out to fight and die for them, as much as for us.

The comforting news for every American is that our men and women in uniform, and every Marine, is as good today as any in our history. As good as what their heroic, underappreciated, and largely abandoned fathers and uncles were in Vietnam, and their grandfathers were in Korea and World War II. They have the same steel in their backs and have made their own mark etching forever places like Ramadi, Fallujah, and Baghdad, Iraq, and Helmand and Sagin, Afghanistan, that are now part of the legend and stand just as proudly alongside Belleau Wood, Iwo Jima, Inchon, Hue City, Khe Sanh, and Ashau Valley, Vietnam. None of them have ever asked what their country could do for them, but always and with their lives asked what they could do for America. While some might think we have produced yet another generation of materialistic, consumeristic and self-absorbed young people, those who serve today have broken the mold and stepped out as real men, and real women, who are already making their own way in life while protecting ours. They know the real strength of a platoon, a battalion, or a country that is not worshiping at the altar of diversity, but in a melting pot that stitches and strengthens by a sense of shared history, values, customs, hopes and dreams all of which unifies a people making them stronger, as opposed to an unruly gaggle of ''hyphenated'' or ''multi-cultural individuals.''

I will leave you with a story about the kind of people they are . . . about the quality of the steel in their backs . . . about the kind of dedication they bring to our country while they serve in uniform and forever after as veterans. Two years ago when I was the Commander of all U.S. and Iraqi forces, in fact, the 22nd of April 2008, two Marine infantry battalions, 1/9 ''The Walking Dead,'' and 2/8 were switching out in Ramadi. One battalion in the closing days of their deployment going home very soon, the other just starting its seven-month combat tour. Two Marines, Corporal Jonathan Yale and Lance Corporal Jordan Haerter, 22 and 20 years old respectively, one from each battalion, were assuming the watch together at the entrance gate of an outpost that contained a makeshift barracks housing 50 Marines. The same broken down ramshackle building was also home to 100 Iraqi police, also my men and our allies in the fight against the terrorists in Ramadi, a city until recently the most dangerous city on earth and owned by Al Qaeda. Yale was a dirt poor mixed-race kid from Virginia with a wife and daughter, and a mother and sister who lived with him and he supported as well. He did this on a yearly salary of less than $23,000. Haerter, on the other hand, was a middle class white kid from Long Island. They were from two completely different worlds. Had they not joined the Marines they would never have met each other, or understood that multiple America's exist simultaneously depending on one's race, education level, economic status, and where you might have been born. But they were Marines, combat Marines, forged in the same crucible of Marine training, and because of this bond they were brothers as close, or closer, than if they were born of the same woman.

The mission orders they received from the sergeant squad leader I am sure went something like: ''Okay you two clowns, stand this post and let no unauthorized personnel or vehicles pass.'' ''You clear?'' I am also sure Yale and Haerter then rolled their eyes and said in unison something like: ''Yes Sergeant,'' with just enough attitude that made the point without saying the words, ''No kidding sweetheart, we know what we're doing.'' They then relieved two other Marines on watch and took up their post at the entry control point of Joint Security Station Nasser, in the Sophia section of Ramadi, al Anbar, Iraq.

A few minutes later a large blue truck turned down the alley way-perhaps 60–70 yards in length—and sped its way through the serpentine of concrete jersey walls. The truck stopped just short of where the two were posted and detonated, killing them both catastrophically. Twenty-four brick masonry houses were damaged or destroyed. A mosque 100 yards away collapsed. The truck's engine came to rest two hundred yards away knocking most of a house down before it stopped. Our explosive experts reckoned the blast was made of 2,000 pounds of explosives. Two died, and because these two young infantrymen didn't have it in their DNA to run from danger, they saved 150 of their Iraqi and American brothers-in-arms.

When I read the situation report about the incident a few hours after it happened I called the regimental commander for details as something about this struck me as different. Marines dying or being seriously wounded is commonplace in combat. We expect Marines regardless of rank or MOS to stand their ground and do their duty, and even die in the process, if that is what the mission takes. But this just seemed different. The regimental commander had just returned from the site and he agreed, but reported that there were no American witnesses to the event—just Iraqi police. I figured if there was any chance of finding out what actually happened and then to decorate the two Marines to acknowledge their bravery, I'd have to do it as a combat award that requires two eye-witnesses and we figured the bureaucrats back in Washington would never buy Iraqi statements. If it had any chance at all, it had to come under the signature of a general officer.

I traveled to Ramadi the next day and spoke individually to a half-dozen Iraqi police all of whom told the same story. The blue truck turned down into the alley and immediately sped up as it made its way through the serpentine. They all said, ''We knew immediately what was going on as soon as the two Marines began firing.'' The Iraqi police then related that some of them also fired, and then to a man, ran for safety just prior to the explosion. All survived. Many were injured . . . some seriously. One of the Iraqis elaborated and with tears welling up said, ''They'd run like any normal man would to save his life.'' ''What he didn't know until then,'' he said, ''and what he learned that very instant, was that Marines are not normal.'' Choking past the emotion he said, ''Sir, in the name of God no sane man would have stood there and done what they did.'' ''No sane man.'' ''They saved us all.''

What we didn't know at the time, and only learned a couple of days later after I wrote a summary and submitted both Yale and Haerter for posthumous Navy Crosses, was that one of our security cameras, damaged initially in the blast, recorded some of the suicide attack. It happened exactly as the Iraqis had described it. It took exactly six seconds from when the truck entered the alley until it detonated.

You can watch the last six seconds of their young lives. Putting myself in their heads I supposed it took about a second for the two Marines to separately come to the same conclusion about what was going on once the truck came into their view at the far end of the alley. Exactly no time to talk it over, or call the sergeant to ask what they should do. Only enough time to take half an instant and think about what the sergeant told them to do only a few minutes before: ''. . .let no unauthorized personnel or vehicles pass.'' The two Marines had about five seconds left to live.

It took maybe another two seconds for them to present their weapons, take aim, and open up. By this time the truck was half-way through the barriers and gaining speed the whole time. Here, the recording shows a number of Iraqi police, some of whom had fired their AKs, now scattering like the normal and rational men they weresome running right past the Marines. They had three seconds left to live.

For about two seconds more, the recording shows the Marines' weapons firing nonstop . . . the truck's windshield exploding into shards of glass as their rounds take it apart and tore in to the body of the son-of-a-bitch who is trying to get past them to kill their brothers—American and Iraqi—bedded down in the barracks totally unaware of the fact that their lives at that moment depended entirely on two Marines standing their ground. If they had been aware, they would have know they were safe . . . because two Marines stood between them and a crazed suicide bomber. The recording shows the truck careening to a stop immediately in front of the two Marines. In all of the instantaneous violence Yale and Haerter never hesitated. By all reports and by the recording, they never stepped back. They never even started to step aside. They never even shifted their weight. With their feet spread should width apart, they leaned into the danger, firing as fast as they could work their weapons. They had only one second left to live.

The truck explodes. The camera goes blank. Two young men go to their God. Six seconds. Not enough time to think about their families, their country, their flag, or about their lives or their deaths, but more than enough time for two very brave young men to do their duty . . . into eternity. That is the kind of people who are on watch all over the world tonight—for you.

We Marines believe that God gave America the greatest gift he could bestow to man while he lived on this earth—freedom. We also believe he gave us another gift nearly as precious—our soldiers, sailors, airmen, Coast Guardsmen, and Marines—to safeguard that gift and guarantee no force on this earth can every steal it away. It has been my distinct honor to have been with you here today. Rest assured our America, this experiment in democracy started over two centuries ago, will forever remain the ''land of the free and home of the brave'' so long as we never run out of tough young Americans who are willing to look beyond their own self-interest and comfortable lives, and go into the darkest and most dangerous places on earth to hunt down, and kill, those who would do us harm. God Bless America, and . . . SEMPER FIDELIS!

LISA STEVEN & AMIE WALTON

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Lisa Steven and Amie Walton for their outstanding service to our community.

Lisa and Amie are founders of Hope House. A place that provides a stable, loving home, as well as programs to give young mothers the tools and skills they need to become self sufficient. After working with teen moms they soon found that many lived in fear, some were homeless, others hungry and many abused. They searched for resources for these young women and found none. There began the vision for Hope House.

Hope House is now a place where young mothers and their children play and laugh, heal wounds and learn skills for success in the future. Staff work to help mothers obtain their GED, master life skills and learn effective parenting skills.

Lisa and Amie say that ''We wanted each young mom and child to know that there is no mistake too big, no past too heavy that would make God give up on them''.

I extend my deepest congratulations to Lisa Steven and Amie Walton for their well deserved recognition by the West Chamber serving Jefferson County. I have no doubt they will exhibit the same dedication and character in all their future accomplishments.

PERSONAL EXPLANATION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, on Tuesday, December 14, I requested and received a leave of absence for December 16 and December 17, 2010.

For the information of our colleagues and my constituents, below is how I would have voted on the following votes I missed during this time period.

On rollcall 640, On Motion to Suspend the rules and pass S. 841, I would have voted ''yes.''

On rollcall 641, On Motion to Suspend the rules and pass S. 3860, I would have voted ''yes.''

On rollcall 642, On Motion to Suspend the rules and pass S. 3447, I would have voted ''yes.''

On rollcall 643, Providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, H. Res. 1766, I would have voted ''yes.''

On rollcall 644, On Agreeing to the Resolution, H. Res. 1766, I would have voted ''yes.''

On rollcall 645, On Motion to Suspend the rules and pass S. 987, To protect girls in developing countries through the prevention of child marriage, and for other purposes, I would have voted ''yes.''

On rollcall 646, On Agreeing to the Levin Agreement, H.R. 4863, I would have voted ''yes.''

On rollcall 647, On Motion to Concur in the Senate Amdt to the House to the Senate Amendment H.R. 4853, I would have voted ''no.''

On rollcall 648, Honoring the accomplishments of Norman Yoshino Mineta, H. Res. 1377, I would have voted ''yes.''

On rollcall 649, An act to enact certain laws relating to public contracts as title 41, United States Code, ''Public Contracts'', H.R. 1107, I would have voted ''yes.''

On rollcall 650, Ike Skelton National Defense Authorization Act for Fiscal Year 2011, H.R. 6523, I would have voted ''yes.''

On rollcall 651, An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges, H.R. 628, I would have voted ''no.''

On rollcall 652, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress, H. Con. Res. 336, I would have voted ''yes.''

On rollcall 653, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, H. Res. 1776, I would have voted ''yes.''

On rollcall 654, GPRA Modernization Act of 2010, H.R. 2142, I would have voted ''yes.''

On rollcall 655, Aiding Those Facing Foreclosure Act of 2010, H.R. 5510, I would have voted ''yes.''

On rollcall 656, Reduction of Lead in Drinking Water Act, S. 3874, I would have voted ''yes.''

HONORING ORLANDO SANTOS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. CHRISTENSEN. Madam Speaker, I rise with pride to offer my congratulations to Orlando Santos, son of Diane Tutein and Enrique Santos, who was featured on the Food Network on Sunday, December 19th as one of the competitors on the Food Network Challenge Sugar Destinations.

Orlando, the executive pastry chef at the Duquesne Club in Pittsburgh, hails from the island of St. Croix and truly represented his artistic and culinary talent with the sugar piece he produced.

Although he did not win, he has made a name for himself and remains a favorite of the judges for his unselfish desire to take his mother to Denmark to connect with her Danish ancestry.

Orlando is a product of the public school system in the Virgin Islands and was raised in a environment of strong, determined women to include his mother Diane, his maternal grandmother Mercedes and his maternal great-grandmother Mariel. He began his training in the culinary arts at St. Croix Vocational Complex. He graduated from Johnson & Wales University in North Miami, Florida and attended the French Pastry School in Chicago. Orlando won his first professional competition in Atlanta with our very own local sweetbread, a pastry that is typical in the Virgin Islands around the Christmas season. In 2004, he won first place in the wedding cake category at the Southern Pastry Classic.

During the challenge on Sunday, Orlando displayed his signature technique; local Virgin Islands flowers, which represent his culture and traditions.

So, on behalf of myself, my staff and our Virgin Islands community all over the world, we are very proud of Orlando as he continues to make a name for himself and the U.S. Virgin Islands in the very competitive culinary world.

CONGRATULATING KAPPA ALPHA PSI FRATERNITY, INCORPORATED ON ITS CENTENNIAL ANNIVERSARY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise to congratulate Kappa Alpha Psi Fraternity, Incorporated on the historic milestone of 100 years of serving local and international communities. On January 5, 1911, Kappa Alpha Psi Fraternity, Incorporated (KAΨ) was

founded by ten distinguished, God-fearing, high achieving, young African-American gentlemen who had the vision to foster leadership through fraternal brotherhood and Christian ideals on the campus of Indiana University in Bloomington, Indiana. These men had the determination to defy customs in pursuit of a college education and professional careers during an oppressive time in American history for African-Americans. Kappa Alpha Psi currently yields a membership of over 150,000 college trained men on more than 360 university campuses, with alumni chapters located in 347 cities, and has representation in five foreign nations.

Since its inception, the brothers of Kappa Alpha Psi have fostered relentless support to our country. Through programs such as Kappa League and National Guide Right, the fraternity has provided thousands of at-risk youth in communities throughout the Nation with role models, mentors, and scholarships for higher education, which in return encourages our youth to make positive contributions to society through leadership and service. Kappa Alpha Psi holds an annual Holiday Food Drive to provide citizens of underserved communities with food, clothing, and toys throughout the United States. The men of Kappa Alpha Psi also volunteer through hands-on partnerships with organizations such as Habitat for Humanity, St. Jude Children's Research Hospital (Memphis), and many more.

On any given day you can see the notable accomplishments from the Kappa Alpha Psi brotherhood in Congress. Each day, as members, we strive to ensure that our brotherhood continues to exemplify achievement in every field of human endeavor. Kappa Alpha Psi sponsors events such as ''Kappas on Capitol Hill'' to increase member awareness about the political process as well as an undergraduate leadership institute to enhance the skills and abilities for the fraternity's top student leaders.

Madam speaker, in 1954, I made one of the best decisions of my life, I joined the noble clan of Kappa Alpha Psi, crossing the sands with Laurel Wreath holder Dr. W.H. Greene. Since that wondrous time, I have enjoyed 56 years of involvement with our Bond. I am awed and indebted to all of our Brothers. For us to celebrate 100 years is a crowning achievement. I am extremely proud to be a part of such a distinguished brotherhood that continuously contributes to the improvement of society. Again, I say congratulations to my brothers of Kappa Alpha Psi for 100 steadfast years of serving local communities and elevating the lives of collegiate men throughout our great Nation.

HONORING DENNIS R. FERGUSON

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I rise today to honor Dennis R. Ferguson, and to ask my colleagues who are not supporters of unemployment benefits to listen to his story and learn about the real value of this program.

Dennis Ferguson lost his job with Douglas Aircraft in Los Angeles in 1964. He was 26 years old, living in a motel, and had reached a crossroads that would determine how the rest of his life would play out. He took advantage of California's unemployment benefits program for 4 months that year and used that money to go back to school and become a computer programmer. Mr. Ferguson thrived in his new field and eventually settled in South Carolina.

Last month, Dennis wrote a check for $10,000 to the State of California to repay the state for the assistance it had given him 40 years earlier. Today, I applaud Dennis Ferguson for this act of generosity, but I also share his story to remind the members of this body about the real world impact unemployment benefits have.

Unemployment in California has been at more than 12 percent for the past 2 years. There are those in this body who have opposed extending unemployment at every turn. I have heard some say that unemployment benefits make people lazy. I have heard others say that if we just cut them off, people will go out and get a job. Such statements show a misunderstanding of what unemployment benefits are for and how they can help those—who through no fault of their own—lost their jobs and need a bridge to get back on their feet.

The most recent unemployment benefit extension ensured that 450,000 people in my home state would not lose their benefits at Christmastime. They now have the chance to get back on their feet just like Dennis Ferguson did. These men and women don't want a safety net, they want to work. They want to be the ones responsible for putting food on the table, and a roof over their family's heads.

Sometimes circumstances arise beyond our control and we need temporary assistance while getting back on our feet. That is what the unemployment program does. I think if you ask Dennis Ferguson's neighbors whether unemployment benefits have a positive impact on a community, they will answer with a resounding yes.

I hope my colleagues who are critics of the unemployment program will re-assess their thinking and stand up for their constituents the next time this body considers legislation impacting the unemployment benefits program.

CELEBRATING THE 175TH ANNIVERSARY OF VERNON AND CAROL SLOAN'S FARMING IN WILLIAMS COUNTY, OHIO

HON. ROBERT E. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LATTA. Madam Speaker, I rise today to honor and congratulate one of Ohio's longest and continuous farming operations. The year 2010 marks the 175th anniversary of Lewis Clark homesteading and clearing the land south of present day Stryker, in Williams County, Ohio. The deed for the conveyance of one hundred sixty acres of land is dated October 7, 1835 and is granted under the signature of President Andrew Jackson. Vernon and Carol Sloan have carried on the stewardship of the land begun by Vernon's ancestor Lewis Clark and have helped to feed not only Ohioans, but Americans and people from around the world. American farmers are some of our hardest working and best producing citizens who continue to find innovative ways to produce crops and raise livestock. Today less than two percent of Americans earn their livelihood on the land while that number is even smaller in Ohio at less than one percent. These numbers are contrasted to the forty percent of Americans who were engaged in agriculture in 1900.

Vernon and Carol Sloan have ingrained their love of the land in their children and their children's children. The Sloans look forward to passing on their farming heritage and tradition to their family's future generations to till the land and harvest the bounties of the earth.

Madam Speaker, I salute Vernon and Carol Sloan on their faithfulness to the land and their family's wonderful achievement on the 175th anniversary of farming in Williams County, Ohio.

MICHAEL ROBERT KINDIG

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and honor Michael Robert Kindig for the years of service to his brothers and sisters. Michael passed away on August 9, 2010, after a battle with pancreatic cancer.

Michael Kindig's achievements are many, particularly his leadership. As a member of the board of the Denver local of the American Federation of Television and Radio Artists, The International Brotherhood of Teamsters, as a member of the National Board of Directors and President of the Colorado Branch of the Screen Actors Guild, Organizer for the Colorado Chapter of the National Alliance for Retired Americans and Editor of the Colorado Labor Advocate for nearly twenty years, Mike worked diligently to advance the labor community in Colorado.

Michael was an alternate delegate to the National Democratic Convention held in Chicago in 1968, and spent the rest of his life dedicated to his political beliefs. He served in the U. S. Marine Reserves for six years. Mike Kindig was a patriotic American.

Michael's father was declared missing in action in Papua New Guinea in 1944, when Michael was three years old. He met his future wife Patricia Gaffney when a search she had initiated for her father, also declared missing in action in Papua New Guinea, yielded the remains of both men. After 55 and 56 years respectively, Major Earl R. Kindig and 2LT George P. Gaffney, Jr., were buried with full military honors in Arlington National Cemetery in Washington DC.

Michael Kindig had a very large group of friends from many walks of life which is a testament to the values he possessed. He will be remembered as a dedicated husband, father and friend committed to making his community a better place for all of us.

RETIREMENT OF GENEVA YOUNG FROM THE SOCIAL SECURITY ADMINISTRATION

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CROWLEY. Madam Speaker, I rise today to pay tribute to an accomplished woman and a longtime leader in the Social Security Administration, Geneva Young. Ms. Young is retiring as the Civil Rights and Equal Opportunity Manager for the Social Security Administration in the New York Region, after being employed with Social Security for nearly 40 years.

Over the years, Geneva has proven herself as a dedicated and committed employee to the Social Security Administration and to the American people. Starting her career with the Social Security Administration as a Claims Representative in the Charlotte, North Carolina field office, Geneva moved up the ranks of the Social Security Administration. After only 3 months on the job, Geneva moved to New York to work for the Social Security Administration in the New Rochelle Field Office. By 1980, Geneva became an Operations Analyst for the Social Security Administration and only 6 months later was promoted to Operations Supervisor. Geneva remained in the New Rochelle Field Office until January 1995, when she began working in the Office of the Regional Commissioner as an Equal Employment Specialist. By 2007, she was promoted to the position of Civil Rights and Equal Opportunity Manager for the Social Security Administration in the New York Region. It is in this role that she is retiring today from the Social Security Administration.

As Civil Rights and Equal Opportunity Manager for the New York Region, Geneva managed the equal opportunity program for the region. As the regional authority on equal opportunity, she has developed, administered and evaluated all Equal Employment Opportunity programs. She also has participated in the agency's policy-development process to create national policies and guidelines for Social Security on Equal Employment Opportunity matters and served as advisor to regional management on the development and interpretation of policies and guidelines.

Throughout her years of serving the people of the New York Region, Geneva has touched many lives with her commitment to public service. She and her staff have worked tirelessly to recommend strategies to resolve controversial issues and plans. She also has organized, directed, staffed, carried out, and reviewed a positive management-oriented Equal Employment Opportunity program. Her services will be greatly missed by her colleagues and friends.

I know what great change and improvement Geneva has provided. I wish her good luck in her retirement, something she deserves after her years of work and service to the Bronx community.

PERSONAL EXPLANATION

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. McCARTHY of New York. Madam Speaker, I was unavoidably absent on December 17, 2010. If I were present, I would have voted on the following:

H. Res. 1377, Honoring the accomplishments of Norman Yoshio Mineta—rollcall #648: "yea."

Senate Amdt to H.R. 1107, To enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts"—rollcall #649: "yea."

H.R. 6523, Ike Skelton National Defense Authorization Act for Fiscal Year 2011—rollcall #650: "yea."

Senate Arndt to H.R. 628, To establish a pilot program in certain U.S. district courts to encourage enhancement of expertise in patent cases among district judges—rollcall #651: "yea."

H. Con. Res. 336, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress—rollcall #652: "yea."

H. Res. 1776, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011 and for other purposes—rollcall #653: "yea."

H.R. 2142, GPRA Modernization Act of 2010—rollcall #654: "yea."

H.R. 5510, Aiding Those Facing Foreclosure Act of 2010—rollcall #655: "yea."

PERSONAL EXPLANATION

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ROSS. Madam Speaker, on Friday, December 17, 2010, I was not present for votes as I was attending the White House signing ceremony for H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Had I been present for rollcall No. 652, H. Con. Res. 336—Sine Die Adjournment, I would have voted "aye."

Had I been present for rollcall No. 653, H. Res. 1776—Rule providing for consideration of H.J. Res. 105—Making further continuing appropriations for fiscal year 2011, I would have voted "aye."

Had I been present for rollcall No. 654, H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act of 2009, I would have voted "aye."

REMEMBERING AND HONORING THE LIFE OF ANDREW BARYLSKI

HON. JOE COURTNEY

OF CONNETICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COURTNEY. Madam Speaker, I rise today to honor Andrew Barylski Sr., who passed away on December 8, 2010. Barylski fought for his country and survived the 1941 attack on Pearl Harbor. I am honored to stand in tribute to him.

Barylski Sr., a Putnam, Connecticut native, was born in 1916 and enlisted in the U.S. Army in 1938. He was stationed in an observation tower high on Oahu at Pearl Harbor on the morning of December 7, 1941 when a surprise Japanese attack left 2,402 Americans dead and 1,202 wounded.

After the attack, Barlyski Sr. stayed in Hawaii and helped rebuild the island until he was honorably discharged in 1945. Barlyski often spoke of his experiences in the war, but always remained modest about his accomplishments. He was a lifelong member of the Putnam American Legion Post 13 and Veterans of Foreign Wars No. 1523.

My thoughts and prayers are with the Barylski family. Andrew Barlyski Sr. served his country and led a remarkable life. I hope that is a small comfort for his son Andrew Barylski Jr., his daughters Linda March and Gloria Ghirarduzzi and six grandchildren and seven great grandchildren as they cope with the loss of their father and grandfather.

True American heroes deserve recognition for their accomplishments. Andrew Barlyski witnessed a turning point in American history and helped rebuild a devastated island in the wake of the Pearl Harbor attack. I ask my colleagues to rise with me so that we may honor Andrew Barylski Sr. and celebrate the life of a true American hero.

NICHOL WOOD

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Nichol Wood for her outstanding service to our community.

Nichol has always set the bar high for herself. While working full time, raising two young sons, earning a college degree and doing it with Cum Laude Honors many would find that impossible.

Nichol excels not only in her personal goals, but in her professional life as well. As the Branch manager of the Bank of the West she exceeded all of her goals in a regional competition among branches earning first place in customer service and loan production.

In addition to focusing on her children and achieving at work, Nichol takes time to give back to the community. She is involved in numerous charitable events, including the March of Dimes Walk for Babies, Kids Against Hunger Food Drive, Operation Hope, Junior Achievement and Habitat for Humanity to name a few.

I extend my deepest congratulations to Nichol Wood for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

MEMORIAM FOR ANNA SUGI, COMMUNITY LEADER AND HEALTH CARE VISIONARY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LEWIS of California. Madam Speaker, I would like to join today with my friend and colleague Congressman BUCK MCKEON in a memoriam to Anna Sugi, a community leader and pioneering advocate for women's health issues in her hometown of Apple Valley, California. Ms. Sugi passed away Dec. 16, but will be long-remembered by her friends and supporters.

A native of Brindisi, Italy, Anna Sugi came to Apple Valley in 1982, when her husband Ron Sugi was stationed at the former George Air Force Base in California's High Desert region.

After an education in health care, Anna Sugi took a job as an office clerk in a local medical office. Over 20 years, she worked her way up to become the chief administrative officer of Choice Medical Group, a High Desert medical provider that has specialized in women's health. Under her leadership, the group established a Health and Wellness Center in 2008, focusing on helping women through the process of aging.

Working to expand health outreach efforts to the all members of the community, Anna Sugi in 2000 founded the Today's Woman Expo. The first events drew a few hundred people for information on preventive health care and providing tools to help women improve their lives and physical well-being.

The event has grown tremendously, serving more than 2,000 women annually in the past few years. They are provided free breast exams, career counseling and an expanding range of services. Today's Woman is now a non-profit foundation that provides health screenings throughout the year and raises funds for scholarships and grants to High Desert women.

Beyond her pioneering work with the Expo, Anna Sugi has served on the Chamber of Commerce Legislative Committee and is a 13-year member of Rotary International Victorville Chapter. She has worked with High Desert Resources Network on programs to fight childhood obesity. She was honored in 2009 by the Victorville Daily Press as one of the area's Most Inspiring Women.

Even as she became a leader in bringing women's health care to the entire community, Anna Sugi waged her own quiet battle against breast cancer. Yet she continued working hard on expanding women's health services until dying peacefully at age 50. In addition to her legacy of service, Ms. Sugi leaves a personal legacy in her children, Mark and Michelle, who will both graduate from UCLA Medical School in June and plan to continue her work in community health.

Madam Speaker, Anna Sugi was respected and loved throughout the High Desert region. A group of physicians have already raised $35,000 for the Anna Sugi Endowment Fund to provide scholarships for needy students. I ask my colleagues to join Congressman MCKEON and me in offering condolences to her family, and in praising the life and legacy of this community leader.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MCMORRIS RODGERS. Madam Speaker, on rollcall No. 652 on, H. Con. Res. 336, on Agreeing to the Resolution, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

Madam Speaker, on rollcall No. 653 on, H. Res. 1776, on Agreeing to the Resolution, Providing for consideration of the joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

Madam Speaker, on rollcall No. 654 on, H.R. 2142, on Motion to Suspend the Rules and Concur in the Senate Amendment, GPRA Modernization Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

Madam Speaker, on rollcall No. 655 on, H.R. 5510, on Motion to Suspend the Rules and Pass, as Amended, Aiding Those Facing Foreclosure Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

Madam Speaker, on rollcall No. 656 on, S. 3874, on Motion to Suspend the Rules and Pass, Reduction of Lead in Drinking Water Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted ''nay.''

HONORING FERNANDO JOSE MOLLEDA RAMIREZ

HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERRIELLO. Madam Speaker, I rise today in honor of Fernando Jose Molleda Ramirez, who was with us from December 21, 1976 through August 22, 2008.

Beloved son of Oscar and Elia Molleda; loving brother to Diego and Diana. You are dearly missed by your family and friends for the profound way you touched our lives and always sought to bring out the best in us. Your efforts will be long remembered and will continue to drive us in the future to exceed our expectations of what we are capable of accomplishing.

I have only slipped away into the next room. Whatsoever we were to each other, that we are still. Call me by my old familiar name, speak to me in the easy way which you always used to. Laugh as we always laughed at the little jokes we enjoyed together. Play, smile, think of me, pray for me. Let my name be the household word that it always was. Let it be spoken without effort. Life means all that it has ever meant. It is the same as it ever was, there is absolutely unbroken continuity. Why should I be out of your mind because I am out of your sight? I am but waiting for you, for an interval, somewhere very near, just around the corner. All is well. Nothing is past, nothing is lost. One brief moment and all will be as it was before, only better, infinitely happier and forever—we will be one with God.

JEANETTE TRUJILLIO-LUCERO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Jeanette Trujillo-Lucero for her outstanding service to our community.

Jeanette has been committed to the preservation of the cultural traditions of the Mexican and Spanish dance and music arts for its community. She has strived to create an understanding and appreciation of the Latino culture through educational programs and professional performance.

Jeanette founded the Colorado Fiesta Dance Company in 1972. Her Lakewood based studio impacts over sixty thousand people through educational outreach and performances. Jeanette's outreach programs include a full array of offerings tailor made for grades K–12 where students discover the Hispanic arts and come to understand the roots of the culture and its traditions.

I extend my deepest congratulations to Jeanette Trujillo-Lucero for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

IN HONOR OF F. MIKE MILES

HON. DOUG LAMBORN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LAMBORN. Madam Speaker, I rise today to honor Mr. F. Mike Miles—the Superintendent of Harrison School District Two in Colorado Springs, Colorado. Mike is an innovative educator who has brought sweeping changes to the students and teachers in his district. Our local newspaper, the Colorado Springs Gazette notes, ''local and state educators are watching because Miles is in the vanguard of educators nationwide who are using controversial techniques in an attempt to turn around failing schools.'' Most recently, Miles implemented the most rigorous and innovative pay-for-performance plan in the Nation.

Mike, who was born in the Panama Canal Zone, was one of eight children born to retired Army Sergeant Major Floyd Miles and his wife, Chiyo. Mike and his siblings worked hard in school and promised their father when he deployed to Vietnam that they would all graduate from college. All of them did.

After graduating as valedictorian from Fountain-Fort Carson High School, he earned a degree in engineering from West Point, where he was eighth in his class. He then joined the ranks of the officer corps at Fort Lewis, Washington, where he served in the Army's elite

Ranger Battalion and commanded an Infantry Rifle Company.

During a night training exercise at Fort Lewis, Mike was nearly killed in a C–130 crash. The fuselage of the plane split open as the plane skidded 200 yards and embedded in the desert floor. Mike recalls, ''I felt my hand break, in three places, and smelled dirt and was knocked unconscious.'' He was buried under the dirt with only his arm showing. Two fellow rangers dug him out and helped him crawl from the wreckage as the plane exploded into flames.

After the Army, Mike studied Slavic languages at the University of California at Berkeley and the University of Leningrad in Russia. Mike then pursued advanced study of Soviet affairs and public policy at Columbia University after being selected as a Mellon Fellow in the Humanities and winning a National Science Foundation Graduate Scholarship.

Mike graduated from Columbia University in 1989 and joined the U.S. State Department as a Presidential Management Intern. He handled a portfolio usually reserved for more senior officials at the Soviet Desk, making policy recommendations and writing talking points for the Secretary of State regarding German reunification, chemical weapons, NATO, and other issues. While at the State Department, Mike became a Foreign Service Officer.

As a diplomat in Warsaw, Poland, Mike tracked Poland's evolving relations with Russia and the countries of Eastern Europe. He analyzed the strength of the post-Communist Party, correctly predicting its return to political power in 1993. A tour in Moscow followed. As special assistant to the U.S. Ambassador to Russia, Mike helped coordinate the Embassy's response to critical events during a time when Russia's relationship to the U.S. in a post-Cold War world was as yet undefined. He received the State Department's Meritorious Service Medal in 1994.

The Cold War largely won, Mike and his family decided to return home. He honored his commitment to continue to serve the public interest and entered the field of education. Mike has assumed leadership roles to raise academic standards in his school district and the State of Colorado. Mike also serves as an educational consultant and motivational speaker for school districts and other public organizations around the State. He is recognized as an accomplished practitioner of curriculum alignment, organizational effectiveness, and systems thinking.

Over the past 5 years Mike and the Harrison School District Two School Board have been on a quest to turn around the chronically underperforming Harrison School District Two. More than 70 percent of the 11,300 students are living below the poverty line and many are at risk of dropping out.

Their systemic reforms of the school district include: Developing and implementing a rigorous pay-for-performance evaluation system; Changing the recruitment paradigm by identifying teacher candidates early and investing in their training and preparation in return for a commitment to teach in the school district; Piloting a Year 2020 curriculum in a middle school and high school in which students learn critical thinking, information literacy, economics and globalization, math and science reasoning, Chinese, and the arts; Developing principals and instructional leaders who are held accountable for improving the quality of instruction and raising student achievement; and Creating a culture of instructional feedback in which classroom instruction is observed and effective feedback is given regularly and consistently.

The district cites these other achievements during Mike's time as superintendent: District removed from state academic probation; Significantly improved test scores; Decreased the minority achievement gap; Improved teacher effectiveness, including removing ineffective, tenured teachers from the district; and Created the only public year-round school in the area.

Despite enormous resistance from the teacher's association in the district, Mike and the school board have not backed down from putting children first. I admire his focus and fortitude in fighting for the school children of Colorado Springs. I commend him for his success and urge professional educators across the country to study his record of success as they look for ways to better educate our young people.

Mike is married to Karen Miles, and they have three children: Nicholas, Madeleine, and Anthony.

Madam Speaker, I thank you for allowing me this opportunity to pay tribute to Mike Miles for his success in improving the lives of our children.

IN HONOR OF THE WORK OF THORAYA AHMED OBAID, EXECUTIVE DIRECTOR OF THE UNFPA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MALONEY. I rise today to celebrate the extraordinary leadership and work of Thoraya Ahmed Obaid, Executive Director of the UNFPA, United Nations Population Fund.

Thoraya Ahmed Obaid will retire as Executive Director of the UNFPA, United Nations Population Fund, at the end of this year. For over a decade, Thoraya has been an exceptional and dynamic leader of this important U.N. agency and key partner to the United States.

Thoraya has had a remarkable life and career where she was often the ''first'' trailblazing a path for others. Born in Saudi Arabia, her father made sure that she received the same educational opportunities as her brothers—sending her at age 7 to a Christian boarding school in Cairo, Egypt. She excelled in her studies and became the ''first'' Saudi girl to receive a government scholarship to attend Mills College in California, where she graduated with distinction.

Thoraya became the ''first'' Saudi Arabian let alone Saudi woman to head a U.N. agency. At UNFPA, Thoraya has effectively implemented and advocated for UNFPA's global mandate to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV and AIDS, every girl, woman and young person is treated with dignity and respect, and that policies for poverty eradication are based on sound data.

Thoraya has played a pivotal role in promoting understanding of the close linkages between the implementation of the agenda of the International Conference on Population and Development and the achievement of the Millennium Development Goals, particularly the importance of respect for the human rights of women and greater investments in education and health for the eradication of extreme poverty and hunger. Moreover, she has a deep and abiding commitment to supporting and advocating gender equality and the empowerment of women, and giving voice to countless women, men and youth around the world to participate in enhancing their reproductive health and well-being.

Under Thoraya's leadership, UNFPA has been a model within the U.N. system on working in collaboration with civil society partners around the world to ensure that culture and rights are central to all development efforts. For example, under Thoraya's watch, UNFPA's Campaign to End Fistula is now working in over 47 countries with doctors, midwives, advocates, community leaders and policymakers to make obstetric fistula as rare in the developing world as it is in the United States.

Thoraya has accomplished much for the world's women and their families with grace, humility, compassion and professionalism. In retirement, she will be returning to the region of her birth to continue to be a vocal and passionate advocate for the most vulnerable and marginalized.

This remarkable and much admired leader will be greatly missed in the United Nations but I am confident we will continue to hear her strong and clear voice for women's well being for many years to come.

I personally thank Thoraya for her vast and tremendous contributions to the world's women.

KITTY PRING

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Kitty Pring for her service to our community.

Kitty balances her involvement in the community, her profession and her passions with skill and perfection. Professionally, she is a mediator and facilitator and is a Principal of ReSolutions Resources, which is an alternative dispute resolution practice. Kitty has been the recipient of many awards including Small Claims Mediator of the Year, Victim Offender Mediator of the Year and the Jefferson County Mediation Service Award.

Her dedication to the environment is evident through her work locally and globally. She coauthored the University of Denver Study Book, ''Greening Justice: Creating and Improving Environmental Courts and Tribunals'' which is a step by step guide provided at no cost.

I extend my deepest congratulations to Kitty Pring for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

REFLECTIONS ON REPRESENTING THE 27TH CONGRESSIONAL DISTRICT OF TEXAS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ORTIZ. Madam Speaker, I rise today to express my deepest and most sincere appreciation to my colleagues of this Congress, and the constituents of South Texas, which has been part of my life while representing the 27th Congressional District of Texas for close to 28 years. I have had the distinct honor to serve as an elected official for the past 46 years, beginning at the ripe age of 27 as a County Constable, County Commissioner, County Sheriff, and finally as a Member of Congress.

I leave many great memories of my time in the Halls of Congress and in the U.S. House of Representatives. Those vivid memories of my arrival that cold winter day in Washington, shortly after the victorious election of 1982, will live on forever. I remember driving around the Capitol and through Washington, DC; the opportunity was great; the moment was there; I had been granted the chance to represent hundreds of thousands of constituents from Deep South Texas.

Today, as I retire from the distinguished House of Representatives, I reflect on the past with satisfaction as I look forward to the future with enthusiasm for the next chapter of what life has to offer. I will be spending well deserved time with my beautiful children—Solomon Jr. and Yvette—as well as my grandson, Oscar, and the rest of my family. I look forward to a much less hectic life. I must admit, I will miss my colleagues—both Democrats and Republicans—and will miss representing some of the most loving, caring, amazing and interesting people of Texas—the constituents of the 27th Congressional District of Texas.

To my friends, supporters and those who have been with me since I was first elected to office in 1964 at the age of 27, from the very bottom of my heart, I thank you for standing by me and with me through it all. Words cannot tell how much I appreciate the love and support you have shown me and my family over the years. Thank you for the good memories and endless accomplishments; thank you for your vote of confidence and for believing in me; thank you for your love and words of encouragement as I worked to be the voice for all the people of South Texas, including minorities, the middle class, poor, vulnerable, and less fortunate.

As I deliver these last few words in the House of Representatives, I am at ease and peace with myself, my family, my colleagues in Congress, my constituents, life and most importantly, I am at ease with God. I truly believe that through our work and significant contributions during my years of service in Congress, we leave South Texas better than before. A more vibrant, economic-friendly and socially developed South Texas. Through the work of local, county, state and federal officials we were able to accomplish great deeds.

Thousands of memories from experiences in my service remain part of the tapestry of my life and always will. I remember the votes on war . . . on economic justice. The battles for bases and 21st Century transportation in South Texas . . . fights and alliances with White House occupants . . . all I remember and savor—whether my side prevailed or not.

This is a great place—despite the shortcomings . . . despite the pettiness of our members from time to time, and despite the dangerous political climate created by those who turned cable news shows into political juggernauts. Democracy is by no means perfect . . . but it still beats all the alternatives.

I leave the national stage, certain of having done the right thing for those I represented. In the thousands of votes I cast in Congress for the 27th Congressional District of Texas, time and time again, I voted to make South Texas and this nation a better and stronger place.

I end my public service with an appropriate verse from Robert Frost's "The Road Not Taken."

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

It certainly has made all the difference.

I yield back my time, for the last time.

RECOGNIZING THE CONTRIBUTIONS OF LOUIS FINKEL TO THE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the service of a valued staff member of the Committee on Science and Technology, my Chief of Staff, Louis Finkel. While Louis still has decisions to make about his future, I've already made my choice. He may remain with the Committee or with the House, but after next week, I no longer will and I wanted to take this opportunity to thank him for his service.

Louis worked for me in my personal office from 1996 to 2001 in several positions, including Legislative Director. He also worked in the office of former Representative Peter Deutsch (D–FL) and in the private sector, representing the interests of educational institutions, nonprofits, and technology and energy companies.

Louis was one of the first hires I made when we took over the majority. I have always said I wanted this to be the Committee of "good ideas and consensus;" and Louis was key to implementing that pledge, with his balance of Hill and private sector experience. He was responsible for steering our committee agenda and organizing our efforts to reach out to folks interested in the business of the committee. He performed that exceedingly well, and when my long-time Chief of Staff retired, there was no one but Louis I could think of to fill the role. He was able to provide a seamless transition and we didn't miss a beat. It helped that he came into the Chief of Staff role with a deep knowledge of the Committee's work, as well as the respect of Members, staff, and the outside community.

The Chief of Staff is a challenging job: you need to not only be able to see the big picture, but also the details. Louis has the ability to row but also to steer. He has mastered the policy, politics and management aspects of the job.

Louis has said that there may be people that are smarter than his is, but there are few that are willing to work harder than he is. That drive and preparation has paid off, and I have been the beneficiary.

When he's not overachieving at work, he may be doing it in the kitchen, where he loves to impress family and friends with his command of the culinary arts.

Louis, I thank you for all your counsel and tireless efforts, and I thank Stacey, Max, and Caleb for their support. I will certainly miss working with you day to day.

PERSONAL EXPLANATION

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. CAPPS. Madam Speaker, I was not able to be present for the following rollcall vote on December 17, 2010, and would like the record to reflect that I would have voted as follows: rollcall No. 656: "yes."

REDUCTION OF LEAD IN DRINKING WATER ACT

SPEECH OF

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BACA. Mr. Speaker, I ask unanimous consent to address the House for one minute.

I rise in strong support of S. 3874, the Reduction of Lead in Drinking Water Act. This bill amends the Safe Drinking Water Act to uniformly reduce the allowable lead content in solder, flux, pipe and fixtures.

It is important to strengthen and clarify national standards for lead in drinking water. Our families and children should feel comfortable knowing that the water they drink is safe. In my district, California's 43rd, we are faced with many water issues and the most severe is perchlorate found in our ground water. Our drinking water was compromised.

No one should have water compromised by perchlorate or lead. This bill is a positive step forward in eliminating the serious health threats and economic burdens caused by lead exposure.

In California, we have a new lead free standard that requires manufacturers to phase out potential exposure from materials in drinking water plumbing by this year. With S. 3874, families in other states will have greater protection from lead exposure.

I urge my colleagues to show their commitment to the safety of America's families and support S. 3874, the Reduction of Lead in Drinking Water Act.

MICAH SPRINGER

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Micah Springer for her outstanding service to our community.

For Micah, Yoga is the means to express passion, joy, sorrow and all aspects of vitality. Her studio began in 1999 in the basement of her home and has grown to a three facility business.

In her Golden studio, Micah is collaborating with the Colorado School of Mines. She learned of the high suicide rate among college students, and saw an opportunity to provide a meditative, non-competitive activity. She has created a Yoga program that counts for school credit and introduces young people to the benefits of Yoga.

I extend my deepest congratulations to Micah Springer for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING THE UNIVERSITY OF WISCONSIN-WHITEWATER FOOTBALL TEAM FOR WINNING THE NCAA DIVISION III NATIONAL CHAMPIONSHIP

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. BALDWIN. Madam Speaker, I rise today to honor the University of Wisconsin-Whitewater football team for completing an undefeated season and winning the NCAA Division III National Championship. The victory marks the Warhawks' third national title in the last four years.

UW-Whitewater has achieved tremendous success on the football field—winning six straight Wisconsin Intercollegiate Athletic Conference (WIAC) championships and earning six consecutive NCAA Division III playoff berths. During a remarkable run under Coach Lance Leipold, the team has amassed a record of 57 and 3 and won 30 consecutive games. On December 18, 2010, the Warhawks defeated the University of Mount Union Purple Raiders in the 2010 Amos Alonzo Stagg Bowl to win their second consecutive national title.

UW-Whitewater Chancellor Richard Telfer and Athletic Director Paul Plinske have fostered a culture of excellence that extends into the classroom. Over the years, 80 Warhawk student-athletes have been named WIAC Scholar Athlete of the Year for their sport. In addition, UW-Whitewater student-athletes have achieved a higher grade point average than the student body at large.

The Warhawks could not have reached the zenith of Division III college football without a steadfast fan base. Students, alumni, faculty, staff, and local supporters flood Perkins Stadium wearing the purple and white to cheer on their team. Many loyal fans even traveled to Salem, Virginia to watch the Warhawks win the 2010 Stagg Bowl.

I join others in south central Wisconsin in recognizing the achievements of the players, coaches, students, alumni, and staff who were vital in helping the UW-Whitewater Warhawks win another national football championship.

H.R. 5281, DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GEORGE MILLER of California. Madam Speaker, I rise today in support of the DREAM Act.

This is common sense, bipartisan legislation that is a win for our economy.

First, in this economy, we need the best, the brightest, the most capable and the most qualified to be a part of the American workforce.

This legislation will allow a limited group of very capable, high achieving young people to help contribute to the economic well-being of this country.

These are young people who didn't come to this country through their own free choice.

But, they are young people who have worked hard to graduate high school or obtain a GED.

These are young people who have contributed to their communities and to this country.

If we turn our backs on these students, then we're turning our backs on a qualified and competitive workforce.

Second, Madam Speaker, simply put, this legislation is the right thing to do.

Critics who argue that the DREAM Act would diminish opportunities for students in this country with full citizenship must not know anything about our colleges and universities.

Our Nation's higher education institutions have the capacity to welcome these students, as many already do, without closing the door for other students.

This Congress has passed historic legislation to increase college access and opportunity for all students.

The bill before us today continues to provide that access to a higher education not only by providing these students a path to citizenship, but allowing them access to critical student aid through loans and work-study.

The financial cost of a higher education is too often a barrier to attending higher education.

It is critical that this bill ensures access to student aid, and gives students a chance at affording a higher education.

It is important to note that this bill allows students to enter into a conditional non-immigrant status for an initial period of 5 years, which shall be extended for an additional five years as long as they have fulfilled all requirements for extension.

After 10 years in this conditional status, eligible students may apply for lawful permanent residence. Once applicants receive conditional non-immigrant status, DREAM Act participants, like lawful permanent residents and unlike many nonimmigrants, are considered to be residing in the United States lawfully without being required to maintain a residence outside the U.S. or have an intent to leave the U.S. As such, conditional nonimmigrants under the DREAM Act should be considered as' residents of the states that they reside in when considering tuition rates at public institutions of higher education, as long as they meet all other residency requirements for in-state tuition.

By passing this legislation, we can reward smart, civic-minded, goal-oriented students and provide access to the American dream.

Let's not punish students and the future of this country.

I urge all of my colleagues to support this bill.

HONORING STEPHAN PASSALACQUA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Congresswoman LYNN WOOLSEY, to recognize and honor Sonoma County District Attorney Stephan Passalacqua, who is retiring after a 22-year career as a County Prosecutor. For the past eight years, Mr. Passalacqua served as Sonoma County's elected District Attorney.

As District Attorney, Mr. Passalacqua was instrumental in obtaining $1.4 million in grant funding and private donations to create the Family Justice Center of Sonoma County, which will be a lasting testament to his service to his community.

He also hosted the first statewide Gang Summit and launched an educational gang prevention program in partnership with Boys and Girls Clubs. This was the first program in the nation to be taught by prosecutors.

His other innovations included co-hosting a Sonoma County Environmental Awareness Forum, hosting multiple Elder Protection Summits, and partnering with community groups to host forums on Internet Safety, Identity Theft and Mortgage Fraud.

He also initiated the first organized activities acknowledging National Crime Victims Rights Week in Sonoma County, which has now become an annual event. The hallmark of his tenure as District Attorney has been his insistence that victims are treated with respect and dignity. He continually worked to raise awareness of victims' rights, to help victims become survivors and to reduce and prevent victimization at the onset.

He has served on several professional boards, including the Institute for the Advancement of Criminal Justice, the Board of Directors of the Sonoma County Bar Association, the Santa Rosa Mayor's Gang Prevention Task Force, and as a Professor of Elder Protection Law at Empire College School of Law.

Mr. Passalacqua was born and raised in Sonoma County and he is firmly rooted in his community. In addition to his professional duties, Mr. Passalacqua has served on the Board of Directors of the Valley of the Moon Children's Foundation, the Rotary Club of Santa Rosa, the Advisory Board of Kidstreet Learning Center, the Board of Directors of the Community Support Network of Santa Rosa and as a mentor with Social Advocates for Youth.

Madam Speaker, after 22 years of public service to the people of Sonoma County,

Stephan Passalacqua deserves to enjoy the riches of this new phase of his life as a water and transportation consultant. We wish him well.

INTRODUCTION OF THE ''OIL SPILL VICTIMS REDRESS ACT''

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, the Oil Spill Victims Redress Act that I am introducing today with the gentlewoman from Florida, Ms. CASTOR, would help protect those Gulf Coast residents who have seen their livelihoods destroyed by the BP Deepwater Horizon oil spill.

This legislation would clarify that people who have suffered economic harm as a result of the BP spill can seek to pursue claims from all of the companies involved in the disaster in state court. The companies involved in the spill, including Halliburton and Cameron, have argued that the Oil Pollution Act preempts state law and, as a result, that all state law claims brought by the victims of the spill should be dismissed or removed to federal court. Some of these companies, such as Halliburton and Cameron, have even argued that they should be exempt from all suits because they are not responsible parties as defined under the OPA.

To be clear, the underlying statute, the Oil Pollution Act, already clearly provides for claims brought in state court and was not intended to preempt state law. The Act clearly states that ''nothing in this Act . . . shall affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under . . . State law, including common law.''

However, in light of the legal arguments proffered by the companies involved in this disaster, the legislation that we are introducing today would further clarify the ability of people to seek compensation in state court. We must ensure that we do not forget about the people of the Gulf who have had their lives destroyed by this disaster. We must ensure that all of the companies responsible for the worst oil spill in our nation's history are held accountable. And we must ensure that everyone who has suffered economic damages as a result of the BP oil spill is made whole.

HAZEL HARTBARGAR

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Hazel Hartbargar for her outstanding service to our community.

As the Director of the Arvada Economic Development Association, Hazel Hartbargar is an advocate for all business in the community and has been recognized regionally and nationally for her work. She has been called the ''heart and soul'' of ADEA. Her ability to help people work together and the compassion she shows is exceptional.

Hazel has been instrumental in implementing many community programs including PropertyLink which is a website local commercial business can use to search for land, as well as retail and industrial space within the city. She also helped to implement JobLink which enables businesses within the city to post open positions.

When Hazel received the Pioneer Award, she was described as a true modern day pioneer; a visionary who ventures into the unknown, creating new opportunities for herself and others and encouraging others to explore new areas of thought.

I extend my deepest congratulations to Hazel Hartbargar for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING PAUL ZALESKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KAPTUR. Madam Speaker, I would like to bring to the attention of my colleagues a tribute to Mr. Paul Zaleski who passed from this life on November 24 at the age of 95. This tribute was written by noted author and historian, Allen Paul, whose books include "Katyn: Stalin's Massacre and the Triumph of Truth." As Mr. Paul points out, Mr. Zaleski epitomized the courage of his generation of extraordinary Poles who came to the U.S. after the terror and broken dreams unleashed by World War II. I, too, had the privilege of meeting him on May 5 of this year at a 70th anniversary observance of the Katyn Forest Massacre, at the Library of Congress. Paul Zaleski may well have been the last link here in the U.S. to the Polish Government in Exile. May his family and friends be comforted in the knowledge he lived to see the fall of the Berlin Wall, Solidarity whose 30th anniversary we commemorate this year, and Poland admitted to NATO.

A TRIBUTE TO PAUL ZALESKI

Paul Zaleski led the most interesting life of anyone I have ever known. Such a quiet unassuming man, imbued with old world grace and dignity, never bitter despite the slings and arrows of outrageous fortune—who could have guessed his escape in a hail of bullets, how he and others returned that fire by pinging the American conscience, how we eventually came to see that Poland, the land he loved and lost, must be reborn independent and free. He laid no claim to great deeds, but the memorable title of Dean Acheson's autobiography—''Present at the Creation''—almost perfectly fits his life.

Paul and I were close friends for twenty years. His death on November 24 leaves a notable void: a direct link is lost—perhaps the last—to the Poles' ill-fated Government in Exile and to the heroic gamble after the end of the war to save Poland from Stalin. Paul was longtime secretary to Stanislaw Mikolajczyk, prime minister of the Government in Exile in London. In 1945 Mikolajczyk decided to go back to Poland to join a communist-controlled coalition government and Paul went with him. Both men were gambling with their lives but took the chance to achieve two main objectives: first, to keep the communists from stealing the ''free and unfettered'' elections promised at Yalta; and second, to prevent Stalin from liquidating and/or deporting nearly 400,000 partisans who were still in the forests of Poland waiting to fight. The elections were stolen through blatant fraud; but aim two was achieved: Mikolajczyk ''bought'' safe passage for the partisans and averted a bloodbath.

Along the way thugs from the infamous UB (security service) made two attempts on Paul's life; and soon it became clear that Mikolajczyk, himself, would be tried as a traitor or liquidated. Both men escaped in 1947 and returned to the west where they launched a high-profile campaign to warn the west about the fate of Poland. Archbishop Francis Spellman arranged for rooms at the Waldorf Astoria where Mikolajczyk wrote his bestseller—''The Rape of Poland.'' The famous sports writer, Bob Considine, helped as did Paul. The book and the heavy speaking schedule Mikolajczyk kept up were influential in getting Congress to investigate the Katyn Forest Massacre in 1951–52. That probe established a record and body of evidence that stands even today. It concluded that the Russians had brutally murdered thousands of Polish officers in the spring of 1940.

Paul's symbiotic relationship with Mikolajczyk heavily influenced his life. Not long before the war Paul earned a law degree from Jan Kazimierz University in Lwow and became an organizer with the Peasant Party (Stronnictwo Ludowe) then headed by Mikolajczyk. After his escape from Poland, Paul went to France where Mikolajczyk was serving in the leadership of the Government in Exile. He sent Paul as an emissary to Bucharest and later to Istanbul. When the Germans invaded Russia in 1941, the Poles and Russians reestablished diplomatic relations; and Paul was sent to help open the new embassy in Kuybyshev. Two years later the relationship fell apart over the Katyn crisis and Paul helped get the embassy staff out of the U.S.S.R. They took the southern route which meant the convoy had to cross ''The Roof of the World''—the Pamir Mountains—to get to Persia. Paul then crossed the Middle East and rejoined Mikolajczyk where the Government in Exile moved after Dunkirk. He was at Mikolajczyk's side—often when he met Churchill and other world leaders—and remained there until Mikolajczyk died in 1966.

His exploits notwithstanding, Paul still had to earn a living after immigrating to the United States. His Polish law degree gave him no standing here, so he went to law school for the second time at George Washington University and later became an attorney with the U.S. Maritime Commission. After he retired he practiced law on his own specializing in estate work. He was executor for many members of the expatriate community and seldom if ever charged for his services.

I saw in Paul many qualities that epitomized the Poles who got stranded in the west when Stalin swallowed their country whole. They found the courage to rebuild shattered lives, became intensely proud and loyal Americans and remained unswerving in their commitment to Polish freedom and independence. I talked to Paul often and we spoke only a few days before he died. I know it gave him great satisfaction—much comfort in fact—that the torch was passed, that the ideals of his generation survived the long dark years of communism, that they are strongly embraced today by a new generation of leaders who have guided Poland to a remarkable position in which it has one of the strongest economies and most stable democracies in all of Europe.

From their near-miraculous escape in 1947 to their messianic campaign to win the minds and hearts of Americans, Paul and his

mentor, Stanislaw Mikolajczyk, came to represent one of the aspects of Polish character I admire most: the concept of ''Victory in Defeat.'' The very idea may strike most Americans as peculiar, but from 1795 to 1989—when Poles were ruled from abroad except for the brief interwar period—it meant that honor came first, that the Poles would never give up, that they would persevere without fail to win back their independence. When I think of Paul I think of this first; and it gives me great satisfaction to know that he lived to see freedom restored and a vibrant Poland reborn.

When I last talked to Paul he told me, as he often did, that: ''I am so thankful that I am able to live in my own home.'' His courage could be measured in matters great and small. Despite crippling conditions he managed to take care of himself until the last four days of his life. To say that he will be missed feels like a gross understatement to me. He was the product of an unusual place and time; he never shrank from the difficulties that came his way. And he would certainly chide me for praising him even to this extent.

HONORING JAMES DIPACE

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MURPHY of Connecticut. Madam Speaker, I rise today to honor a great man and constituent, James DiPace. Mr. DiPace has devoted 37 years of service to the Avon Volunteer Fire Department, and has served as Fire Chief there for the last 15 years.

The community of Avon is lucky to be home to a man like James DiPace. His selfless dedication to the town and his devotion is remarkable, and he deserves to be recognized by the House of Representatives as he retires as fire chief.

Incorporated in 1943, the Avon Volunteer Fire Department proudly protects more than 16,500 people. During his tenure as Fire Chief, Chief DiPace oversaw several incidents in town, but perhaps none more powerful than the July 29, 2005 crash at the base of Avon Mountain. That morning, a dump truck lost its brakes and careened into a line of stopped vehicles at a traffic light. The accident involved 19 vehicles and a CT Transit bus. Four people died that morning. On that sad day, Chief DiPace acted as incident commander at the scene from 7:30 am until after midnight. Two years later, another truck lost its brakes and caused an accident at the same intersection. Again, Chief DiPace was the incident commander at the scene. During these times of tragedy, it was always comforting to know that James DiPace, a man of keen interagency relations and cool temperament, was commanding the scene.

Throughout his service, James DiPace has been an active member of Connecticut's community of emergency responders. While Fire Chief, he served as Fire Marshall and Emergency Management Director for the town of Avon. Additionally, Chief DiPace has served as president of the Connecticut Fire Chiefs Association and the Capitol Region Fire Marshalls Association.

James DiPace's service to the community does not stop at the firehouse doors. Outside of his commitment to the Avon Volunteer Fire Department, Mr. DiPace has been part of many civic organizations in town, including the Chamber of Commerce and the Lions Club. With his family, Fire Chief DiPace has also opened his home to several Fidelco Guide puppies and dogs, preparing them for their jobs as Seeing Eye companions.

James DiPace has given so much of himself to the town of Avon without wanting anything in return. His presence will surely be missed in the Avon Volunteer Fire Department. Today, I rise to thank Fire Chief DiPace for his remarkable service and wish him the best in retirement.

COMMEMORATING THE LIFE OF MARVIN ZANDERS

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. CORRINE BROWN of Florida. Madam Speaker, I rise today to honor the memory of my dear friend and constituent Marvin Clyde Zanders of South Apopka, Florida. Mr. Zanders operated one of the premier funeral homes in the United States. But he was much more than a successful and popular mortician to the people of Central Florida. According to his son, ''his personality made him a 'life-giver' '' and he gave so much of his own life to the community.

Mr. Zanders served the families of Central Florida for over fifty years in ways too many to list. He provided scholarships, sponsored sports teams and gave continuous support to various organizations throughout Central Florida. He was known as ''The People's Choice'' and even Apopka's mayor often called him ''The Mayor of Apopka.''

The community formally recognized Mr. Zanders' humanitarian efforts by renaming Lake Avenue in Apopka to Marvin C. Zanders Avenue and dedicating the Marvin C. Zanders Park in Winter Garden. Ten years ago, the South Apopka Ministerial Alliance established the ''Marvin C. Zanders'' humanitarian banquet to honor the accomplishments of community leaders like him.

Mr. Zanders also served individual families in their time of grief with extraordinary compassion. Whenever one of my constituents could not afford a proper service in honor of a loved one, I knew that Marvin would take care of them. Through his selflessness, Marvin Zanders showed people that when we give back, we all become better and stronger. As he often said, ''God gave me a chance; let me give my fellow man a chance.''

My thoughts and prayers are with his children and many grandchildren. God has blessed us by allowing us to have Marvin Zanders in our lives.

HONORING DAVID CAVICKE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, my friend and fellow member of Red Sox nation, David Cavicke, the Chief of Staff for the Republicans on the Energy and Commerce Committee, is leaving the Committee in January after nearly 16 years on the Hill at the Committee. Mr. Cavicke is an institutionalist—he has sought to work quietly on a bipartisan basis to advance the good of the country across the array of issues within the jurisdiction of the Committee.

Over the years, Mr. Cavicke has ably served the Republican Members of the Energy and Commerce Committee. But he has also helped facilitate bipartisan compromise on many vital issues. In 1995, he staffed then-Subcommittee Chairman Jack Fields when our Committee enacted the National Securities Markets Improvement Act, which rationalized various aspects of federal securities laws. Two years later, under then-Subcommittee Chairman Oxley, he worked with my office to bring the New York Stock Exchange and NASDAQ Stock Market out of the 18th century and into the 21st by ending government mandated pricing in fractions and moving to decimal pricing. The Common Cents Stock Pricing Act of 1997 provided the impetus to end fractionalized trading which cost investors $3 billion a year. Each year American investors, rather than professional floor traders and NASDAQ market makers, will put that $3 billion to more productive uses, such as saving for retirement and children's education.

Following the transfer of the Committee's securities jurisdiction over to the Financial Services Committee, Mr. Cavicke moved into a management role on the Republican staff. In that capacity, he has been relentlessly fair and has always sought to work to provide procedural due process to all members of the Committee regardless of the issue of the moment. I join in expressing the thanks of the Members of the Committee for his service, and our best wishes.

EREKA O'HARA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Ereka O'Hara for her outstanding service to our community.

Ereka O'Hara became a realtor in 1982 and as a working mother she still found time to be involved in the community. Ereka served on the board of the Jefferson County Association of Realtors early in her career, and later sat on the board of the Arvada Jefferson Kiwanis, Children's Charity and the Arvada Chamber of Commerce.

When the entire board of the Children's Charity resigned, their annual Charity Ball was in jeopardy. Ereka stepped in and hit the challenge head on. She gathered a new board, rallied the troops and ran the Charity Ball for three years. She raised over $100,000 for the Arvada Center Accessibility Program and the Arvada Child Advocacy Center.

I extend my deepest congratulations to Ereka O'Hara for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

INTRODUCING OIL INDEPENDENCE FOR A STRONGER AMERICA ACT OF 2010

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. INSLEE. Madam Speaker, I rise today to introduce Oil Independence for a Stronger America Act of 2010, a bipartisan bill to help transition our transportation sector from an oil-based system to one based on electricity and natural gas. This legislation is a significant investment in our shared goals to reduce our dependence on foreign oil, and ramp up production of homegrown biofuels in states like Washington that can spur our economy and create American jobs. As many of you know, the U.S. has only two percent of the world's oil reserves while we consume 23 percent of the world's oil. The status quo is not in our national security interests, or economic interests. Of all the oil that is used in the United States each day, 57 percent is imported, and 70 percent of that imported oil comes from countries that do not enjoy many of the same basic freedoms as U.S. citizens. Further, this addiction costs the U.S. economy close to $1 billion per day. This imbalance of supply and demand means that the U.S. will be dependent on foreign sources of oil unless we create smart and thoughtful policies to invest in America's clean energy technologies and infrastructure.

This bill provides the necessary framework for the United States change invigorate new American industries and kick our oil habit. To put this in perspective everyone should know that approximately one-third of the total amount of energy consumed in the United States is to fuel the 249 million vehicles that are burning gas on our highways.

The Oil Independence for a Stronger America Act of 2010 contains language that has the goal of reducing our dependence on oil by approximately 3 billion barrels per year, a number that represents nearly all of our oil imports. This bill would:

1. Establish the National Energy Security Program to coordinate oil reduction efforts across all of government
2. Help deploy electric and natural gas vehicles though tax credits and deployment demonstration projects
3. Amend current federal transportation planning rules to include planning for oil savings in transportation infrastructure plans developed by states and authorize funding for projects to implement the plans
4. Help the U.S. advanced biofuels industry scale up to commercial levels
5. Support research and development in battery technologies

In addition to strengthening America by reigning in our oil consumption the legislation also has very positive environmental benefits. Almost ⅓ of all the Green House Gas, GHG, emissions in the U.S. come from the transportation sector. Switching over 60 percent of our transportation sector to electric vehicles would cut emissions by 33 percent. This is the equivalent of taking 82 million gas burning cars off the road.

In the great state of Washington, interests from the private and public sectors are already working to bring electric vehicles and the associated infrastructure to the 1–5 corridor. Their efforts can be greatly enhanced by this legislation. Realizing the goals of this legislation will ensure that the U.S. secures its competitive edge in this field.

This legislation is a win-win-win for the future of the United States. We can help secure our nation's energy resources, reduce our nations greenhouse gas emissions significantly which will help mitigate issues of global climate change, and ensure that innovative transportation technologies like advanced batteries and advanced biofuels are made here in the United States. In closing, I urge my colleagues to cosponsor this bill, and hope that we can work together to move it toward passage as soon as possible.

ARTUR DAVIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LEE of California. Madam Speaker, on behalf of the Congressional Black Caucus, I rise today to honor Congressman ARTUR DAVIS. During the past eight years, Congressman DAVIS has represented Alabama's seventh congressional district with earnest dedication.

An Alabama native, Congressman DAVIS was raised by his mother and grandmother. Despite his family's modest means, he excelled in school and graduated with honors from both Harvard University and Harvard Law School. As a law student, he worked for the Southern Poverty Law Center and for U.S. Senator Howell Heflin. From 1994 to 1998, he served as a Federal prosecutor in Montgomery and earned an almost perfect trial conviction record. He spent the following four years as a litigator in private practice until he was elected to the House of Representatives in 2002.

During his eight years in office, Congressman DAVIS has become well known for his political acumen and public speaking ability. He gained national recognition when he garnered significant bipartisan support to pass the HOPE VI program to improve public housing. Significantly, Congressman DAVIS was also a major player responsible for the reopening of the Pigford black farmer's lawsuit. Among his national honors, Esquire Magazine selected him as one of the top ten best Congressmen in America.

Congressman DAVIS has served admirably as a member of the Ways and Means Committee, the Judiciary Committee, and the House Administration Committee. He made an impressive contribution to the Democratic Party during the 2008 election cycle as the Recruitment Chair for the Democratic Congressional Campaign Committee.

Congressman DAVIS is a passionate and pragmatic legislator, who has fought to improve the lives of the people in his district and throughout the country. On behalf of the Congressional Black Caucus, I honor Congressman ARTUR DAVIS.

IN NATE A TRIBUTE TO AN AMERICAN HERO CPL. NATHAN ''NATE'' SCHAMING 82ND AIRBORNE 1/504 PIR CO. THE UNITED STATES ARMY

HON. JOHN A. BOCCIERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BOCCIERI. Madam Speaker, Corporal Nate Schaming of Ohio, and The United States Army . . . 82nd Airborne Division 1/504 PIR C Co., lost both his legs in an IED explosion in Iraq on 12/01/07. Like many of our heroes who come home from war, he must begin a new battle and a new fight. As we watch him in awe, as he rebuilds his life, with but only his faith and great courage to sustain him . . . Another key part of his recovery, can also be directly attributed to his wonderful mother Pamela who has been there day and night. Any doctor or nurse will tell you that the family members are the true Unsung Heroes in recovery . . . and they are key to it. I ask that this poem penned by Albert Caswell be placed in the RECORD.

In . . . Nate . . .
Born with it, something so very great!
Inherent, the nature or something . . . belonging to . . . In Nate, that's what you do!
An Army Man, Who So Can! One of Ohio's, who's who!
A future Hero seen, who from deep down within him . . . such his greatness would convene!
When courage crests . . . Like John Glenn, Oh Those Most Heroic Ohio Men . . . But, The Best!
Who lock and load . . .
The ones, who live by the greatest of all honor codes . . .
Who but for us, them and their families . . . bare the load . . .
Who all in times of war, who with such hearts of courage sure . . .
Ensure our victory, all out upon death's road!
To lose your once strong two fine young legs!
As upon, them . . . such speed they gave!
While then somehow to rebuild . . . while so close to the grave!
With but with only lies within a heart, so brave . . .
Surely, but coming from down within . . . coming from Nate!
A man from that Buckeye State . . .
Who has taken all of this pain and heartache . . .
For him, Heaven would have to wait . . .
As with a mother's help so great . . . his new life he creates!
For God is Good, and God is Great!
All in such men and women of honor, he so creates . . .
All within hearts which will not hesitate, from somewhere deep down within . . . inside so states!
So states, all about Courage and Faith . . .
Whose fine hearts, are so full of character . . . as so In Nate . . .
Who Teach Us All, Who Reach Us All . . . Who So Beseech Us and Do So State!
Of what we are born with . . .
And the kind of courage, we are warmed with . . . that which so ever lives on which states!
For as we stand here this day and see, what is good . . . what is great . . .
What is so . . . In Nate!
As now we understand, The Greatest Of All Things . . .

That which our Lord so creates, are but found deep down within someone like Nate!
And if ever I have a son, I but hope and pray . . . he could but be like you this one!
In Nate!

PASSING OF REVEREND S.L. ROBERSON

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. DINGELL. Madam Speaker, a distinguished churchman, much loved in southeast Michigan who led the House of Representatives in prayer on September 5, 2007, has been called by the God he served so faithfully.

Reverend S.L. Roberson, pastor of Metropolitan Memorial Baptist Church in Ypsilanti, Michigan, passed away on November 11, 2010. His long and faithful service to his God and fellow man has endeared him to the people of the Ypsilanti and Ann Arbor region of Southeast Michigan in a very special way.

Reverend Roberson was a Marine and he served this country at Okinawa and Iwo Jima in World War II. When he came home he never stopped serving.

Reverend Roberson led the congregation at Metropolitan Memorial Baptist Church from 1954. He was a leader to that church and he was leader to the Ypsilanti community. He was a gifted communicator and he put that gift to work for his community, his congregation, and his nation.

Reverend Roberson leaves behind a grieving family and thousands of grieving friends and admirers.

He was commemorated in a celebration of his life at Metropolitan Memorial Baptist Church on December 18, 2010.

On behalf of the House of Representatives, which he led in prayer, I extend our condolences to his much loved widow, Mrs. Hollie Roberson, and his family.

A TRIBUTE TO AN AMERICAN HERO: SERGEANT MAJOR RAYMOND MACKEY, 3RD BATTALION 10TH MARINES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HUNTER. Madam Speaker, I rise today to pay tribute to an American Hero, Sergeant Major Raymond Mackey of Sierra Vista, Arizona and the 3rd Battalion 10th Marines. This Marine has served our Nation for 28 years; leading and inspiring our Nation's Marines.

On December 23, 2009, while on patrol, he noticed a marker left by the enemy indicating an improvised explosive device, IED, up ahead. As he pushed a fellow Marine out of the way of the IED, it exploded and Sergeant Major Mackey lost his legs and almost his life. With the help of his wife, Vicki, he recovered and is doing well today.

I ask that the following poem by Albert Caswell penned in honor of Major Mackey and his family be placed in the RECORD:

ARIZONA'S BRIGHT SON

Arizona's son . . .
Shining, but so very brightly . . . as but does, so this one!
Ah yes Raymond, you are one of her brightest of all ones!
As thy will be done!
A United States Marine, oh yes, you are on one of the finest of all things!
That, this our Country . . . has . . . ever so seen . . .
As a leader of women and men, as upon battlefields of honor you would descend . . .
A Sergeant Major, whose entire life will be . . . and has always been . . .
One of strength in honor, time and time again!
As so boldly forth, Mac you have worn that fine shade of green!
As a magnificent brave heart, who would go off to war to lead . . .
Leaving behind, all that you so loved . . . and adored!
All for God and Country, all for our most precious freedom to ensure!
As into such fine heroes, molding and leading our men and women so for sure!
As when, all in that moment's of truth . . .
Saving your brother in arm's life, giving up your own two strong legs . . . as lies the proof!
As when, you looked down . . . and so saw what you had found . . .
As the tears upon his most heroic face, came streaming down!
But, Marines don't quit! They lead!
As now Sergeant Major Mackey, you have a new battle to win . . . a new war to succeed!
For some heroes, are but put upon this earth!
To teach us, to reach us . . . to all of our hearts so beseech us . . . all in their worth!
For all in our Lord God's heart, they do so surely come first!
As does, this bright son now shine! As over the skies of Arizona, you so rise!
With but your faith and courage, but bringing tears to all of our eyes!
The kind of son, I wished was mine!
Who will one day, Heaven . . . for his faith and courage, wings will so find!
Oh Mac, how you do shine! All in your life, all in your time!
And all of those lives that you have saved . . .
And all of those magnificent heroes you have so trained and trained!
And all for your most heroic brothers in arms, who no so lie in soft quiet graves . . .
Have so marched forth all in those magnificent shades of green!
As you will rise up with your heart of courage full, as once again to lead the way!
As your most courageous life, so brightens all of our days!
Marine! ''Oh Mackey, how you do shine!''
There's an even brighter son, now shining this day all in Arizona's skies!
It's you, Sergeant Major Raymond Mackey, whose heart to new heights as does so rise!

HONORING BILL COGBILL

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Congresswoman LYNN WOOLSEY, to recognize and honor Sonoma County Sheriff Bill Cogbill, who is retiring after a 36-year career in law enforcement.

Sheriff Cogbill began his career in 1975 with the Petaluma Police Department in Sonoma County. Three years later, he joined the Sonoma County Sheriff's Office as a patrol officer assigned to various beats throughout this large, rural county.

He was promoted to Detective in 1987 and specialized in narcotics enforcement. He was promoted to Sergeant the following year and was assigned to Patrol and Personnel Services.

In 1995 he was promoted to Lieutenant and was assigned to the Town of Windsor as that community's Chief of Police. He served in this capacity for three years when he became Captain of the Sheriff's Field Services, a position he held until 2003 when he was elected Sheriff.

He had many specialty assignments during his tenure with the Sheriff's Office, including service with the Hazardous Incident Team, Street Crimes Unit, Field Training Officer Program and Instructor and Coordinator of Defensive Tactics.

Sheriff Cogbill has received numerous awards and citations during his long career, including the Sheriff's Distinguished Service Award, the Santa Rosa Chamber of Commerce Leadership Award, and the Bob Tucks Peace Award. He is also a graduate of the FBI's National Academy in Quantico, Virginia.

Sheriff Cogbill has served on numerous local and state committees working to improve public safety, law enforcement and detention services, including the Board of Directors of the California State Sheriff's Association Board of Directors. He has continuously encouraged his Command Staff to participate fully in professional organizations and within the community.

Madam Speaker, Sheriff Bill Cogbill has served the people of Sonoma County well during his distinguished career. It is appropriate that we commend him for his many years of public service and wish him well on his retirement.

RECOGNIZING THE CONTRIBUTIONS OF LEIGH ANN BROWN TO THE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the service of a valued staff member of the Committee on Science and Technology, Leigh Ann Brown. She can best be described as my 'right hand' and she has been with me almost as long.

Leigh Ann has literally worked with me from the beginning of my political career. We share the same hometown of Murfreesboro, Tennessee. Her work with me actually started as the fortunate result of my mother telling me that ''My good friend's daughter is interested in politics.'' So in 1984, as a high school senior, she worked on my first campaign; and every summer of college she either worked on my campaign or as an intern in my office.

After graduating from Vanderbilt University, she immediately joined my Washington, DC

staff. And following a period where she lived in Missouri, she returned to DC to work on the staff of the Committee on Science and Technology.

I have long been proud of the bipartisan nature of this Committee. Leigh Ann exemplifies this even in her home as she is happily married to John Cuaderes, the Republican Deputy Staff Director for the Committee on Oversight and Government Reform. Outside of work, Leigh Ann is a dog-lover, a DC restaurant connoisseur, and she enjoys traveling.

Leigh Ann is known among staff as the person who gets things done. Throughout her career, staff have consistently relied on her sound judgment and thoughtful consideration on a countless number of projects. Beginning in 2007, the offices of the Committee on Science and Technology were renovated as the first House office space in the "Green the Capitol Initiative." Leigh Ann managed and oversaw this vast project. She also coordinated the transition of our committee to the Majority in 2006.

Leigh Ann has long been a dedicated, loyal, and hard working member of my staff I want to thank her from the bottom of my heart for everything from volunteering as a teenager on my first campaign to her expertise in managing the office for the Committee on Science and Technology.

Leigh Ann, I cannot imagine my time in Congress without your steadfast service. I know that all the staff of the Committee on Science and Technology wish you well in the next phase of your life. We will miss you and cannot replace you.

INTRODUCTION OF THE VETERANS HOUSING FAIRNESS ACT OF 2010

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MALONEY. Madam Speaker, today I introduce a bill to ensure that veterans have access to a diverse range of housing options.

In 2006, Congress passed legislation allowing veterans to use their VA loans to purchase cooperative housing. The VA loan program allows veterans to buy homes with no down payment and limited closing costs; additionally, the program offers negotiable interest rates and flexible repayment plans. With over one million housing cooperatives nationwide, extending these generous loan benefits can make affordable homeownership a reality for veterans in our districts all across the country.

This bill makes permanent the Department of Veterans Affairs loan guarantee for the purchase of residential cooperative housing units and gives veterans the freedom to choose where they live by allowing veterans to use their veterans' loans to purchase co-ops. In my district, co-ops are often the lowest cost housing. It makes no sense to deny veterans the ability to use their veterans' benefits to purchase these units. My bill will allow veterans to explore all housing options and choose the one that suits their needs.

With this legislation we can honor the service and sacrifice of our nation's veterans by giving them the tools and resources they need to pursue their dreams.

EQUITY IN SOCIAL SECURITY ACT OF 2010 INTRODUCTION STATEMENT

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I rise today to introduce the "Equity in Social Security Act of 2010." This bill is designed to eliminate the discriminatory policy of the Social Security Administration that prevents same-sex couples from receiving the same benefits as their heterosexual counterparts.

Social Security provides spousal, survivor, and death benefits to married heterosexual couples in their later years. Same sex couples are not eligible to receive these benefits because the federal government does not recognize their marriages or civil unions.

These same-sex couples pay into Social Security while working just the same as every other American, but in their time of need, the government treats them differently. Gay couples receive 18 percent less in Social Security benefits than heterosexual couples while lesbian couples receive 31 percent less than heterosexuals. It is no wonder that these groups are also more likely to live in poverty in their old age than heterosexuals.

All Americans should receive a Social Security benefit based on their contribution to the program, not their sexual orientation. That is why my legislation would allow couples in relationships that have been recognized by their state of residence, whether a domestic partnership, civil union or marriage itself, to receive the same benefits from Social Security as heterosexual married couples.

Let me be clear about this effort today. This is meant in no way to distract from the effort to repeal the Defense of Marriage Act. That is the ultimate goal in the movement for marriage equality. My bill is not about marriage—it is about economic fairness. This legislation is meant to provide assistance to elderly individuals who have not been treated fairly by their government.

I urge my colleagues to support this important legislation.

DON'T ASK, DON'T TELL REPEAL ACT OF 2010

SPEECH OF

HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Ms. RICHARDSON. Mr. Speaker, I rise in support of the Senate Amendment to H.R. 2965 and do so proudly. I support the Senate Amendment because I stand on the side of our military and all who have sacrificed for our freedom, and that is why I support the repeal of the "Don't Ask, Don't Tell", DADT, policy which, since 1993 has resulted in the discharge of over 13,000 American servicemen and women and cost our taxpayers hundreds of millions of dollars in wasted funds. DADT denies equality to thousands of our soldiers and dissuades thousands more from enlisting in the defense of our country.

I believe that all Americans willing to risk their lives in the defense of our country and obey its laws should be allowed to do so. Both our military and civilian leaders support the repeal of DADT. It is our responsibility to ensure that this change is initiated at a gradual, manageable pace so as to avoid any unnecessary disruption.

Defense Secretary Gates and Admiral Mullen, Chairman of the Joint Chiefs of Staff, understand that an orderly transition is critical to minimizing disruption in the ranks, ensuring we maintain our strength level and not compromise national security. I applaud Secretary Gates' leadership and initiative, beginning with the landmark report he commissioned in March 2010 which included a survey of over 115,000 enlisted personnel and 44,000 military family members. In conjunction with this report, the Department of Defense prepared an implementation plan that will provide a smooth transition with minimal dislocation. The Pentagon stands ready to implement this plan, and I am proud that Congress is acting to move it forward.

In the 17 years since DADT was adopted, there has been a remarkable change in public opinion regarding the acceptance of gays and lesbians serving in the armed forces. This change has been so dramatic that the repeal of DADT no longer represents a subject of controversy for the large majority of Americans. Indeed, repealing DADT brings public policy in line with informed popular sentiment, which is nearly always a positive good.

The Pentagon's report documents one of the largest surveys of the attitudes of military personnel ever conducted. Its key finding is that the sexual orientation of their peers is not a matter of concern to most service members. Nearly 7 in 10, 69 percent, of respondents believed that they had already served with a gay or lesbian in their unit, and it did not undermine morale or military readiness. The report also finds that, if properly implemented, the repeal of DADT will have no adverse affect on unit cohesion or morale. These attitudes are in line with those of most Americans, who recognize that the military needs every patriotic, able-bodied recruit during a time of war.

Mr. Speaker, opponents of the measure still claim that repealing DADT is "social engineering" that will undermine morale and erode the fighting force of our nation's military. Their claim is refuted by the empirical study conducted by the Pentagon. It is also interesting to note that similar arguments were raised in opposition to racial integration and the enlistment of women in the armed services. The critics were wrong then and they are wrong now. The action we take today also brings us in line with the long-standing practice of our NATO allies as well as that of Israel, a nation rooted in faith that would do nothing to compromise the security of its people.

Mr. Speaker, I am proud to support this legislation and urge all my colleagues to do likewise. I look forward to the moment when President Obama signs this bill into law, which will at once strengthen our armed forces and ensure that all those who want to defend our freedom are given the opportunity.

DENISE WADDELL

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Denise Waddell for her outstanding service to our community.

As the President of First Bank of Wheat Ridge, Denise has developed an exceptional team, built and maintained business relationships and worked tirelessly to promote a positive economic environment in the community.

Denise Waddell supports many programs that promote small business including the Wheat Ridge community as a whole. As the Board President for Wheat Ridge 2020 she actively advocates at City Council meetings, speaks out on the opportunities for investment and constantly champions collaborative efforts.

I extend my deepest congratulations to Denise Waddell for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes:

Mr. HOLT. Mr. Chair, it is with regret that I rise in opposition to this legislation. Less than two weeks ago, I joined a majority of this House in passing middle class tax relief that balanced the needs of working families with our nation's need to get its fiscal house in order. Unfortunately the Senate failed to pass this bill.

The legislation we are considering today is deeply flawed. We should try to put money in the pockets of working families, and I do not fault President Obama and many of my colleagues who want to get something done on behalf of the millions of Americans who need help. But, this is the wrong way to do it.

Yet, at a time when income inequality in the United States has risen to its highest level in decades, the bill under consideration would shift the burden of funding the federal government further onto middle-class and working-class families. The bill would give away tax breaks to the wealthiest two percent of households at a cost of more than $120 billion charged to the national debt.

I am most concerned, however, that the bill undermines the very idea of Social Security. Social Security has been a pillar of our society for generations. When Franklin Delano Roosevelt, Frances Perkins, and others created Social Security in 1935, it was a political masterstroke. Social Security was created as an insurance program and has remained intact for 75 years because Americans have a real sense of ownership for the program.

In good economic times and in bad, regardless of which political party is in power, this sense of ownership—that Americans will get out that which they put into the Social Security—has allowed it to survive despite the efforts of determined enemies.

A provision in the bill would reduce an employee's contribution to Social Security from 6.2 percent to 4.2 percent of salary. This could have a beneficial stimulative economic effect. The $112 billion cost to the Social Security trust fund of this payroll tax holiday is supposed to be replaced with money from the general treasury fund. But that is just the problem. In Social Security's history such a commingling of payroll taxes and money from the Treasury at this scale is unprecedented.

This is not just about the financial health of Social Security, rather it is about Social Security's rationale that has worked well for generations. This bill places Social Security on the table with tax breaks for business expenses, tax breaks for the top two percent of Americans, the estate tax and the Alternative Minimum Tax—essentially making it just another bargaining chip. If we allow Social Security to become a bargaining chip for dealing politicians, then it will not be long for this world. As much as we need economic stimulus now, we will need Social security for decades to come. Rather than taking money from Social Security, I would support a tax credit—similar to President Obama's Making Work Pay tax credit—that would give working families a sizeable tax break with money from general revenues.

In a message to Congress on January 17, 1935, FDR insisted that Social Security should be self-sustaining and that funds for the payment of insurance benefits should not come from the process of general taxation. FDR's message is as correct today as it was 75 years ago.

To be sure, the legislation before us today contains many good provisions that I would support on their own. The bill contains a one year extension of emergency unemployment benefits. According to the Labor Department, there are five job-seekers for every job opening in the U.S. Extending unemployment is the right thing to do morally and for the economy. The legislation would extend middle class tax relief for two years along with many family-friendly tax breaks such as the Child Tax Credit, Earned Income Tax Credit, Alternative Minimum Tax relief, and marriage penalty relief. The bill also would extend expanded transportation benefits for commuters and tax credits like the research and development tax credit to help businesses grow and create jobs.

Congress needs to provide unemployment insurance for Americans searching for work, extend tax relief working families, and find solutions to our budget crisis. Yet these must not come at the expense of Social Security. It is too important to lose.

HONORING ELIZABETH HIGH SCHOOL CARDINAL FOOTBALL

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COFFMAN of Colorado. Madam Speaker, I rise today to congratulate the coaches, athletes, and fans of Elizabeth High School for their outstanding performance during the 2010 football season. The grit, determination, and perseverance showed by these young individuals culminated with a 3A State Championship on December 4, 2010. Playing under intense pressure in front of a packed house at Legacy Stadium in Aurora the Cardinals exceeded expectations and fought through all odds to obtain a 29 to 6 victory over an extremely talented Glenwood Springs football team.

Such exemplary work could not have been achieved without the unwavering and visionary tutelage of head coach Chris Cline and his staff of Mike Zoesch, Ty Barrett, Craig Blackman, Brian Martinez, Eric Jiblits, Kirt Woodman, and Steve Mann. Their energy, expertise, and passion for the game was contagious and helped ignite a truly outstanding season. Recognition must also be given to the unsung heroes of the team. Managers Kayla Allred, and Briana Cisneros tirelessly worked to take care of logistical aspects of the game, ensuring the coaches and players could focus their energy on the gridiron.

I would like to congratulate these young men individually for their accomplishment; they will forever be remembered for bringing their first state title to the proud town of Elizabeth. They are: Josh Weber, Dakota McCune, Zach Shepherd, Marty Sullivan, Dalton Taylor, Scott Carter, Jordan Bucknam, Brad Goldsberry, Blake Arellano, Colton Dillavou, Nate Nicholas, Zach Butler, Bobby Wintersteen, Joe Finken, Dylan Burgett, Spencer Fulbright, Sean Dorrance, Eli McKinney, Chase Nicholas, Trayco Ross, Jake Soule, Landon Willson, Austin Peterson, Peyton Hopkins, Gabe Mortensen, Matt Hrabik, Steve Biery, Cody Slade, Kellen Gomon, Brandon Strannigan, Micha Lockerby, Salvador Robles, Cole Hoffman, Cody Miller, Dakota Boss, Dallas Reins, Seth TenEyck, Trevor Gill, Chantz Walpole, Travis Cayou, Carter Solomon, Brian Shomshor, John Weber, Garrett Sweigert, Sean Taylor, Matt Doura, Devon Campbell, Robert Wagner, Tim Reeder, Jaxon Graber, and Trayco Ross.

Chase Cline and Matt Biery deserve special acclimation for their selection to participate in the Colorado All State football game in June. The superior talent and dedication of these scholar athletes is archetypical of the entire team apparatus that helped lift the Cardinals to an undefeated season.

Fans, family, and school officials who braved the elements to motivate their team from the bleachers are to be commended as well. I know the deafening roar of the crowd on key plays throughout the season helped propel the team to unmatched heights. I join them, and the rest of the sixth district of Colorado in proclaiming my congratulations to a highly deserving school and town.

RECOGNIZING DR. DAT QUANG LE AS A RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to honor Dr. Dat Quang Le of Springfield, Virginia as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching (PAEMST). Administered by the National Science Foundation in coordination with the White House Office of Science and Technology Policy, the PAEMST program recognizes outstanding teachers for their commitment to the teaching and learning of mathematics and science. Dr. Le, along with only 102 other mathematics and science teachers throughout the nation will receive a $10,000 award from the National Science Foundation.

Dr. Le has been a teacher for 15 years, the last 13 years of which he spent teaching science at H.B. Woodlawn Secondary School in Arlington, Virginia. Recently, Dr. Le moved within the Arlington Public School system. He now works as a science specialist, helping develop the county's science curriculum and providing general support for teachers throughout the county.

Madam Speaker, I ask my colleagues to join me in recognizing Dr. Dat Quang Le as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching for his dedication to the students of the Arlington Public School system and to the teaching and learning of mathematics and science.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is $13,868,461,288,845.81.

On January 6th, 2009, the start of the 111th Congress, the national debt was $10,638,425,746,293.80.

This means the national debt has increased by $3,230,035,542,552.01 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

FINAL STAFF REPORT OF THE SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, I hereby submit to the CONGRESSIONAL RECORD the executive summary of the Final Staff Report from the Select Committee on Energy Independence and Global Warming on the committee's activities in the 110th Congress. A full copy of the Select Committee's Final Staff Report for the 110th Congress can be found at globalwarming.house.gov.

FINAL STAFF REPORT FOR THE 111TH CONGRESS

SUMMARY

We are at a watershed moment in the history of energy production—and the choices we make at this juncture will determine the fate of our planet and the national security and economic future of the United States. Between now and 2030, roughly $26 trillion will be invested in energy infrastructure worldwide. Clean energy will likely make up an increasing share of this investment with every passing year. The International Energy Agency (IEA) estimates that $5.7 trillion will be invested in renewable electricity generation alone between 2010 and 2035. This new infrastructure is long-lived and costly, and the decisions made in the next decade will set the course of the global and U.S. energy system—and of the global climate—for the next century and beyond. This transition also presents an unprecedented opportunity for economic growth and job creation in the clean energy technology sector. Other countries are taking the lead in clean energy and the United States must act now if it is to remain competitive in this rapidly developing global market.

Global climate change presents one of the gravest threats to our planet's health, and to America's economy, its national security, and its public health. Scientists warn that we may be approaching a tipping point, after which it will become increasingly difficult, or perhaps impossible, to halt global warming and its catastrophic effects. The United States confronts this issue at the same time it faces a deepening energy crisis—characterized by skyrocketing prices, high dependence on foreign oil, and continued—reliance on high-carbon fuels that worsen the climate crisis.

The Select Committee on Energy Independence and Global Warming was created by Speaker of the House Nancy Pelosi in 2007 to examine and make recommendations on the interrelated issues of energy independence, national security, America's economic future and global warming.

During its four years, the Select Committee held 80 hearings and briefings, conducted investigations, led fact finding trips with Congressional members, and contributed to the most active four years in energy and climate policy development and debate in the United States Congress.

As a result of the Select Committee's work in raising the profile of energy and climate issues, and spurring increased debate, the House of Representatives passed several pieces of legislation that will reduce our nation's consumption of foreign oil, increase energy efficiency, and create new jobs in the clean energy sector.

In 2007, the first year of the Select Committee, the House passed the Energy Independence and Security Act, which included fuel economy provisions co-authored by Rep. Edward J. Markey, Chairman of the Select Committee. The bill also increased America's use of advanced biofuels, and updated energy efficiency standards for appliances and lighting systems.

The Select Committee also was instrumental in pushing for increased investment in clean energy technologies. The American Recovery and Reinvestment Act of 2009 invested $90 billion in clean energy, which jump-started new domestic industries like advanced electric batteries, boosted household energy efficiency, and helped key renewable energy sectors like wind and solar avoid collapse during the recession.

In June of 2009, the House passed the Waxman-Markey American Clean Energy and Security Act, the first passage of a comprehensive energy and climate bill in the history of the U.S. Congress. The bill set ambitious carbon reduction targets, which were used by U.S. negotiators to craft the Copenhagen Accord. It also created a roadmap to create clean energy jobs and the next generation of clean energy technologies.

These legislative achievements happened as historic events indicated that swift action was needed to address a strained energy system and a dangerously destabilized climate. The years 2007–2010 are all in the top ten warmest years on record, according to NASA. Oil and gasoline prices peaked to record levels in 2007 and are on the rise again as the country emerges from the recession.

As the Select Committee ends its tenure of progress, it is clear that there is much left to be done to stabilize our global climate, and spur the development of clean energy technology and jobs here in America.

This report summarizes the results and findings of the Select Committee's hearings and investigations, highlights legislative accomplishments that flow from the information it has developed and makes recommendations for steps moving forward. We begin with a discussion of the key issue of energy independence.

RECOGNIZING MS. KIMBERLY MORROW LEONG AS A RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to honor Ms. Kimberly Morrow Leong of Gainesville, Virginia as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching (PAEMST). Administered by the National Science Foundation in coordination with the White House Office of Science and Technology Policy, the PAEMST program recognizes outstanding teachers for their commitment to the teaching and learning of mathematics and science. Ms. Leong, along with only 102 other mathematics and science teachers throughout the nation will receive a $10,000 award from the National Science Foundation.

Ms. Leong joined the Loudoun County Public School system in 2009 as a mathematics facilitator. Prior to that, Ms. Leong taught at Marsteller Middle School in Prince William County and All-Saints Catholic School. As a mathematics facilitator, Ms. Leong works with 70 teachers on a daily basis while also supporting approximately 250 teachers from 10 different middle schools who serve 9,800 students throughout the county. Ms. Leong has helped Loudoun County teachers meet the Virginia Standards of Learning objectives by introducing new tools and resources to improve students' mathematic and critical thinking skills.

Madam Speaker, I ask my colleagues to join me in recognizing Ms. Kimberly Morrow Leong as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching for her dedication to the students of the

Loudoun County Public School system and to the teaching and learning of mathematics and science.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 652 H. Con. Res. 336, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress.

Had I been present, I would have voted "no."

HONORING BARBARA HEISER O'NEIL ON THE OCCASION OF HER RETIREMENT

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ROTHMAN of New Jersey. Madam Speaker, I rise today to recognize Mrs. Barbara Heiser O'Neil, a resident of Hawthorne Township, New Jersey, for her 35 years of devoted service to the citizens of New Jersey as a Constituent Affairs Manager at Public Service Electric and Gas.

Barbara O'Neil grew up in Paterson, New Jersey and studied at Montclair State University and Yale. She held various roles as an employee at Public Service Electric and Gas (PSEG), eventually becoming a Constituent Affairs Manager. Mrs. O'Neil is well known to every Congressional District Office in New Jersey. Congressional members and staff know that when a constituent need arises, Mrs. O'Neil will always help in a manner that is both timely and caring.

Mrs. O'Neil has had a significant impact on my constituents throughout her career at PSEG, yet her contributions to the people of New Jersey extend beyond her role as a Constituent Affairs Manager. She is devoted to giving back to her community as a volunteer, currently serving as a member of the Board of Bergen Community College and Gilda's Club of Northern New Jersey. She has also served on the Board of the American Cancer Society. Mrs. O'Neil's commitment to improving the lives of her fellow New Jerseyans shines through in all that she does.

Madam Speaker, today I would like to recognize Barbara Heiser O'Neil's dedication to the State of New Jersey and congratulate her on her outstanding career. I send her my best wishes for a happy and healthy retirement.

HONORING THOSE WHO SERVED ON THE USS FRANKLIN DURING WORLD WAR II

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LARSON of Connecticut. Madam Speaker, I rise today to pay homage to my father and the men and women who he served with on the USS *Franklin.* The ship that wouldn't die, also known as "Big Ben," is one of the most decorated ships in naval history. I often think of how my dad, then just 19 years of age, 45 miles off the coast of Japan, dealt with the series of events that unfolded on the Essex-class carrier *Franklin.* Like so many of his generation, he said little about the battle and the loss of life that took place during the crew's effort to keep the *Franklin* afloat. Al Amos, one of my dad's friends from Connecticut, was also a survivor and recently his daughter sent me a book, "Inferno: The Epic Life and Death Struggle of the USS *Franklin* in World War II," which chronicled the heroic efforts on board the *Franklin* on March 19, 1945. In memory of that event, I flew a flag over the United States Capitol to honor Al, my dad, all the surviving crew members, and those who have since passed. History will forever record these deeds and the valor displayed. As the son of Raymond E. Larson, I wanted to pay this small tribute in recognition of the heroic efforts that defined the men and women who have served our country and make us uniquely American. The following is a brief summary.

On March 19, 1945, the Essex-class battle carrier, the USS *Franklin,* had maneuvered less than 50 miles from the coast of Japan. It was closer than any American ship had been to Japan during the war. The crew had been battle-tested since the summer of 1944 and launched numerous attacks on the enemy in the Pacific from Iwo Jima to the Bonin Islands. It had survived multiple attacks by the enemy from bombers, torpedo assaults, and kamikaze missions. A direct hit from a bomber on October 3rd killed 3 sailors and wounded 22 and a suicide bomber struck the *Franklin* on October 30th, killing 56 and wounding 60 on board. Following a grueling tour of duty the previous year, the *Franklin* had been repaired and was stationed near the Japanese mainland in 1945 where it was launching attacks on the mainland island of Honshu and the Kobe Harbor.

On March 19, a Japanese bomber dropped from the clouds and struck the *Franklin* with two armor-piercing bombs in a devastating hit that penetrated the deck, destroyed the ship's communication system, and caused it to become engulfed in flames. Just off the Japanese coast, the *Franklin* was dead in the water. There were countless stories of heroics among the 704 survivors who saved the lives of many more who would have otherwise perished. Of the many heroes that day, the ship's chaplain, LCDR Joseph T. O'Callahan, led rescue efforts through twisted metal, burning debris, and suffocating smoke while administering last rites and comforting the wounded.

LT Donald Gray discovered 300 men trapped in a mess compartment and led repeated efforts to evacuate them and rescue them from certain peril. Both men received the Medal of Honor for their bravery. In total, 724 sailors were killed in the attack and 265 were wounded. Through the blistering assault from the enemy, the USS *Franklin* was the most heavily damaged ship to survive the war and managed to make it back to port.

Many of the survivors went on to lead remarkable lives. Spencer Le Van Kimball went on to become a Rhodes Scholar and the youngest Dean of the University of Utah Law School at the age of 35. Alphonse Goodberlet was a pilot who was wounded while serving on the USS *Franklin* and went on to have a distinguished career in the Navy, rising to the rank of Commander after 22 years of service. Alvin Gallen, who served as a gunner on the *Franklin,* was drafted to play baseball for the Cleveland Indians and played in their farm system before leaving the game to have a long career in commercial building. These brave young men from various walks of life came together to patriotically serve their country and hundreds paid the ultimate sacrifice. Sixty-five years later, the ordeal that these sailors went through is a reminder that America has faced enormous challenges before and has been able to overcome them. Although it is hard to imagine a more difficult situation than the assault the USS *Franklin* faced, that battered ship made it back to port and the survivors went on to be part of the greatest generation. We owe them a tremendous debt of gratitude and will never forget the sacrifice they made for this country.

RECOGNIZING THE GIVING CIRCLE OF HERITAGE HUNT

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Giving Circle of Heritage Hunt in Gainesville, Virginia.

The Giving Circle was established by members of the Heritage Hunt community to assist local non-profit organizations with financial donations. Members of the Giving Circle save one dollar each day for this effort. At the end of the year, the organization's membership considers applications from non-profits and votes on the recipients of the annual donations.

It is my honor to enter into the CONGRESSIONAL RECORD the recipients of the Giving Circle's 2010 donations:

BEACON for Adult Literacy provides tutoring to adults in English for Speakers of Other Languages (ESOL), the GED or high school equivalency test, and basic reading, writing, and math skills. BEACON also provides life-skills workshops on topics such as health and safety, nutrition, financial literacy, parenting skills and community resources.

Brethren Housing Corporation is in its 22nd year of providing sustainable, permanent affordable housing and transitional housing to low- and middle-income families in the Greater Manassas and Prince William County area.

Court Appointed Special Advocates of Greater Prince William County trains volunteers to protect abandoned, abused or neglected children. The Advocates help the children receive the assistance they need to overcome their trauma and find a permanent home. The organization currently serves 400 children with the help of more than 100 volunteers.

The Prince William Area Free Clinic is a public-private partnership between Prince William and Sentara Potomac Hospital, the Prince William Medical Society, and the Prince William Health Department. It is staffed by volunteer professionals and support staff to help meet the needs of the low-income and uninsured population.

Project Mend-a-House uses the skills of volunteer carpenters, plumbers, electricians,

painters, gardeners, and others, matching them with people in need of minor home repairs and safety modifications.

Transitional Housing Barn provides housing, supportive services, life management skills and financial education for homeless women and their dependent children.

Madam Speaker, I ask that my colleagues join me in commending the Giving Circle of Heritage Hunt for helping these worthy organizations further their missions to assist our less fortunate neighbors. I extend my personal appreciation to the Giving Circle for promoting the spirit of charity and generosity in our community.

LORD NICHOLAS WINDSOR URGES NEW ABOLITIONISM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. SMITH of New Jersey. Madam Speaker, I rise tonight as former and incoming Chairman of the Foreign Affairs Human Rights Committee to ask my distinguished colleagues of the House to take a few moments to read a brilliant, incisive, extraordinarily well written defense of the child in the womb by Lord Nicholas Windsor of the UK, great grandson of King George V.

Calling the abortion of unborn children ''the single most grievous moral deficit in contemporary life,'' he appeals to conscience and admonishes us to the ''greatest solidarity and duty of care because they are the weakest and most dependent of our fellow humans.''

Lord Nicholas notes that ''permissive abortion is a fact of life so deeply embedded and thoroughly normalized in our culture that—and this is the most insidious factor in that normalization—it has been rendered invisible to politics in Europe. Even mentioning it has become the first taboo of the culture.''

And how can that be?

Lord Nicholas faults ''determined campaigns of propaganda at the outset to harden consciences, and gradually to enforce a conformism that fears to question what is said to be a settled issue.''

Settled? Not here in the U.S., Madam Speaker, and hopefully not for long in Europe either.

On what he calls a ''moral world turned upside down,'' Lord Nicholas says, ''the greatest irony may be that a broad consensus exists, in a highly rights-aware political establishment, in favor of one of the gravest and most egregious abuses of human rights that human society has ever tolerated. Didn't Europeans think they could never and must never kill again on an industrial scale? What a cruel deceit, then, that has led us to this mass killing of children . . . .''

''This is the question of questions for Europe;'' he writes, ''the practice of abortion is a mortal wound in Europe's heart.''

And he goes on to persuasively advocate for a new ''abolitionism'' for Europe akin to the movement to abolish slavery. But the notes are ever mindful of the need to meet the needs of women: ''The task for us is not merely to abolish. We must also creatively envisage new and compelling answers to the problems that give rise to this practice . . . .''

A brilliant essay. A must read for those who treasure and promote human rights. And equally applicable to us—in the United States—which mourns, or will mourn someday, killing over 53 million children by abortion since 1973.

LORD NICHOLAS WINDSOR WARNS EUROPEANS NOT TO FORGET THEIR MOST PRESSING MORAL ISSUE: ABORTION

[From First Things, Dec. 1, 2010]

(By Lord Nicholas Windsor)

At the close of the last century, as the reckoning was drawn up in Europe for the actions and reactions of the twentieth century, could we not have been forgiven for tending a little toward the view that we had, after everything, acquitted ourselves rather well? Hadn't we a long list of accomplishments to admire in the years after 1945? We had expunged Fascism, at immeasurable human cost, and we had made profound reparation for its effects. We had washed our hands of colonialism and vastly improved the material lot of the poor in our own countries. We had built robust democracies and welfare states and novel institutions in Europe to defuse nationalisms and guarantee peace among former belligerents. We had advanced the rights of women—indeed, the whole spectrum of rights. We had won the Cold War.

Much more could be added, I think. Poised just then before the new millennium, seeing what vast work had been done in our societies, mightn't it have seemed quite possible that the greatest moral cancers in our civilization had been at least contained and possibly eradicated? Hadn't history, at least this moral cycle of history, really reached an end?

In the decade since the turn of the millennium, the cultural mood has been less happy, for a variety of reasons. Even at its most confident, however, the West generally recognized that some work remained to be done. So, for example, the position of the poorest in the world, it is held, will gradually and continually improve if enough effort is made, not least by the developed world. For the mitigation of global warming and climate change, political determination will suffice to alter the carbon-hungry lifestyles that cause the problem.

The point here is that moderate political activity is believed to be the sort of thing required to address these problems, and there is a reasonable degree of optimism that such political activity will be usefully brought to bear, without the need to resort to force.

A remaining category of problems still to be dealt with could be bundled together as ''Rogue Regimes, the Taliban, and al-Qaeda.'' This category rightly causes public alarm and engenders calls for robust and, where necessary, lethal response. But these are not threats that appear existential and have not as yet provoked a real sense of public crisis. Neither have they brought about mass political action in the West. They are still, I believe, seen as problems that will ultimately be solved, or at least kept at bay, without huge social upheaval on our home soil and certainly with nothing like the warfare resorted to by previous generations.

Is it still possible then that we can point to anything of any real significance that had been overlooked, anything dangerous smuggled into this new phase of history that has caught us unawares? I would say that this is indeed the case, and I would like to focus especially on a matter and a practice that constitutes the single most grievous moral deficit in contemporary life: the abortion of our unborn children.

This is a historically unprecedented cascade of destruction wrought on individuals: on sons, daughters, sisters, brothers, future spouses and friends, mothers and fathers—destroyed in the form of those to whom we owe, quite simply and certainly, the greatest solidarity and duty of care because they are the weakest and most dependent of our fellow humans. All else that we concern ourselves with in the lives of human beings derives from the inescapable fact that first we must have human lives with which to concern ourselves. By disregarding this self-evident fact of the debt owed immediately to the unborn—which is to be allowed to be born (and let us not forget that all of us might have suffered just the same fate before our birth)—humanity's deepest instincts are trampled and shattered.

This was only an implausible glimmer in the eyes of the most radically progressive thinkers and activists a century ago. Today legal, permissive abortion is a fact of life so deeply embedded and thoroughly normalized in our culture that—and this is the most insidious factor in that normalization—it has been rendered invisible to politics in Europe. Even mentioning it has become the first taboo of the culture.

There are consciences in Europe, it must be stressed, that glow white-hot for justice and strive continuously for this darkest fact of our public life to appear in public debate as clearly as it does across the Atlantic in the United States. For most of our contemporaries, however, this is a matter that impinges little. The effectiveness of determined campaigns of propaganda at the outset to harden consciences, and gradually to enforce a conformism that fears to question what is said to be a settled issue, has worked wonderfully well.

And this enforcement of a new status quo succeeds so well due, surely, to benefits enjoyed as a result—benefits of an order that make acceptable even the killing of innocents, by their protectors, on a scale that freezes the imagination. How much then must depend on its remaining so, remaining beyond question? This is the nub of that ideological word choice. So much else can be chosen in a given life if the option to dispose of unwanted children is dependably available. So many intoxicating freedoms are newly established, if only abortion is never again denied to women and to men.

But what of the cost? As with the cost of previous great willful destructions of human life, of whole classes of human life, the fact that it must and will be borne is a certainty, whatever the nature and scale of it. Of course, in the first order of consequences, the price paid by the victims is not obscure: We must never forget that the heaviest price is paid by those whose lives are not to be lived.

In the second order of consequences, however, we must look closely at the hidden burden faced by those, especially mothers, who participate in these acts and the losses affecting present and future society. How will a society regard itself, or value its own distinctive culture, when it has placed this fearful act at its center—consciously approving, even celebrating, its own most egregious moral failing? Will it have the confidence simply to regenerate itself? To survive by producing the next generation of children in sufficient numbers?

I would like to emphasize that we must never mistake the secondary effects of this moral enormity for the primary, as this would surely be to instrumentalize the victims and fail again in our duty of respect toward them. It would be an absurdity such as if the real tragedy of the Shoah were felt first of all to lie in the social consequences. No, what we must first lament is the mass destruction of human beings who had first been deemed worthless. The fact in itself is

what we must keep before our eyes, before and apart from our regard to anything that may derive from it.

We live in what is truly a moral world turned upside down, and the greatest irony may be that a broad consensus exists, in a highly rights-aware political establishment, in favor of one of the gravest and most egregious abuses of human rights that human society has ever tolerated. Didn't Europeans think they could never and must never kill again on an industrial scale? What a cruel deceit, then, that has led us to this mass killing of children, for a theoretical greater good, which in this case is simply the wish not to be bound by a pregnancy unless it is fully and freely chosen and which, outside of that parameter, is declared, by fiat, to be null and void.

The sophistry is overwhelming: If I choose and desire my child, then ipso facto I have granted it the right to live, and it will live. But the inverse is equally the case, by means of nothing more or less than my choice: Caesar's thumb is up, or Caesar's thumb is down. And when it comes to exporting this idea, we do it with zeal and determination through such institutions as the United Nations and the European Union.

The granting to ourselves of the right wantonly to kill, each year, millions of our offspring at the beginning of their lives: This is the question of questions for Europe. The practice of abortion is a mortal wound in Europe's heart, in the center of Hellenic and Judeo-Christian culture.

Having so recklessly carried this poison out of the twentieth—the ugliest of all centuries—let us, for the sake of all that has been good and beautiful and true about the culture of the West, be clear that there is an urgent moral priority here. Call it a ''New Abolitionism for Europe''—the word abolitionism emphasizing the continuity between the challenge faced now with the generational campaigns waged so clear-sightedly in late-nineteenth-century America to rid itself of the injustice of slavery. The abolitionists, I believe, exemplify the courage and imagination required, even if they do not provide perfect templates for what we face now.

This is a task that calls for a broader approach to the safeguarding of life, as taught to us by those earlier struggles to apportion value where it previously had not been deemed to exist. We must re-enliven the valuing of life, and this cannot restrict itself to the question of abortion, despite its moral centrality. It must have regard to every threat to the integrity of human beings, at all stages of their being and in all circumstances.

The task for us is not merely to abolish. We must also creatively envisage new and compelling answers to the problems that give rise to this practice, when the easiest solutions may be destructive or distorting ones. And the goal is that human life, without any exception, may be as treasured and respected as the highest moral thought has perennially called for it to be, and as our consciences surely sound the echo.

Author affiliation:

Lord Nicholas Windsor studied theology at Oxford University and is patron of the Right to Life Charitable Trust and the Catholic National Library. Great-grandson of King George V of the United Kingdom, Windsor is the first blood member of the British royal family to be received into the Catholic Church since King Charles II on his deathbed in 1685.

HONORING LIEUTENANT COMMANDER MICHAEL ''RAY'' CAIN'S DISTINGUISHED CAREER

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. WU. Madam Speaker, I rise today to pay tribute to Lieutenant Commander Michael ''Ray'' Cain, U.S. Coast Guard. Lieutenant Commander Cain retired in September 2010 after 27 years of faithful and diligent service to the U.S. Coast Guard and his Nation.

Lieutenant Commander Cain enlisted in the U.S. Coast Guard in September 1983 and quickly rose through the ranks to Senior Chief Petty Officer. He then earned a commission as a Chief Warrant Officer in 1999 prior to being selected for promotion to Lieutenant and subsequently Lieutenant Commander in 2009. LCDR Cain has diligently served the Coast Guard both afloat and ashore as a subject matter expert in electrical systems and marine inspections.

Lieutenant Commander Cain completed a seven-year tour in Astoria, Oregon, as the sole senior marine inspector responsible for ensuring the safety of more than 75 passenger vessels that carry thousands of passengers each year into the oftentimes hazardous waters off the Oregon and Washington coasts.

Former Oregon Governor Tom McCall once said, ''Heroes are not giant statues framed against a red sky. They are people who say, 'This is my community, and it is my responsibility to make it better' '' Lieutenant Commander Michael ''Ray'' Cain truly is an American hero, for he has devoted much of his life to making his country and community better.

It is an honor for me to recognize Lieutenant Commander Cain for his service and for providing a heroic example to us all.

IN RECOGNITION OF THE SIKH FOUNDATION OF VIRGINIA'S 2010 ANNUAL CULTURAL PROGRAM

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Sikh Foundation of Virginia's 2010 Annual Cultural Program.

The Sikh Foundation of Virginia (SFV) was established in 1987 to serve the religious and spiritual needs of the Northern Virginia Sikh community. The SFV promotes religious, educational, social and cultural aspects of Sikhism and collaborates with other religious organizations to host inter-faith events. The SFV is a welcome participant in an ethnically diverse Northern Virginia community.

The Annual Cultural Program brings the vibrant heritage of Sikhism and the Indian state of Punjab to Sikh American youth in Northern Virginia through songs, dances, poems, and literature readings. The event encourages Sikh Americans, especially children, teens and young adults, to preserve the culture and traditions of their Sikh ancestors as they grow to be contributing members of American society.

Madam Speaker, I ask that my colleagues join me in celebrating the Sikh Foundation of Virginia's 2010 Annual Cultural Program. I would like to extend my personal appreciation to the SFV for its unique contribution to the ethnic fabric of the Northern Virginia community.

HONORING THE LIFE OF DR. HYLAN BENTON LYON, JR.

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HALL of Texas. Madam Speaker, I rise today to honor the memory of a dedicated veteran and scientist, Dr. Hylan Benton Lyon, Jr., of Heath, Texas, who died at the age of 74 on July 20, 2010.

Born July 20, 1936 in New London, Connecticut, Dr. Lyon was the son of World War II Veteran Rear Admiral Hylan Benton Lyon, Sr. and Wilma Lyon. In 1958, Hylan graduated from the United States Naval Academy and proudly served his Nation as a naval reconnaissance pilot during the Vietnam War from 1958 to 1969. In addition during his naval career, he attended the University of California, Berkley where he earned a PhD in physical chemistry.

Dr. Lyon enjoyed a very successful career, serving under President Richard M. Nixon and President Gerald Ford on the President's Science Advisor staff, which included working on the Advanced Aircraft Instrumentation program of the U.S. Office of Naval Research. In addition, he worked as a Science Policy Analyst with the State Department. He was a senior consultant to the White House Office of Science and Technology Policy on International Science and Technology under President Jimmy Carter.

As a civilian, Dr. Lyon was a deputy director of the Science, Technology and Industry Directorate in the Organization of Economic Cooperation and Development in Paris, France and then spent ten years with Texas Instruments. While at Texas Instruments, Dr. Lyon used his vast experience in risk management and water resources serving as a member for President Carter's National Agenda for the Eighties Commission and as a chairman of the National Defense University Distinguished Fellows with oversight of the Mobilization of Concepts Development Center. Following his time at Texas Instruments, Dr. Lyon was the chief technology officer for Marlow Industries for fifteen years and then worked for Dumas Capitol Partners LLC.

Dr. Lyon was the president and COO of Polytronix Inc. and was the co-founder of the Texas Institute of Science. He was a member of the Organization of Economic and Co-Operation of Development. In addition he was a member of the Cosmos Club in Washington, DC, Park City Rotary, Rockwall Republican Men's Club and the Rockwall Power Team. He was an avid biker and fisher and had a love for sailing. He also was active in community service.

Hylan is survived by his wife, Sandra Starr Lyon, son Matthew Lyon and wife Jasmine Andrew Lyon, son Jonathan Lyon, son Christopher Starr and wife Rebecca, and son Kenneth Starr and wife Jennifer, daughter Karen

Rogers, several grandchildren, his sister Sharon Gugat and her husband Kevin, and several nieces, nephews, and cousins. He is also missed by those in the community and his classmates from the Naval Academy.

Madam Speaker, I am privileged to have known such a wonderful citizen of Heath, Texas, who leaves a legacy in public service and in science that will be long remembered.

IN APPRECIATION OF MARY COLLEEN McCARTY

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MOLLOHAN. Madam Speaker, on January 2, 1974, a gallon of gas cost about 53 cents, the Dow Jones Industrial Average closed at 855, and the top-selling 45 on Billboard's chart was Jim Croce's "Time in a Bottle." That was also the day a recent college graduate, Mary Colleen McCarty, began her professional career, reporting to work in the personal office of Representative Robert H. Mollohan of West Virginia's first congressional district.

On January 2, 2011, Colleen will bring that remarkable career to a close, retiring from my office as Chief of Staff. For the 37 years between those two January days—9 years spent working for my father and 28 in my office—Colleen built a record of service and accomplishment that few congressional staffers can match.

All of us understand how important staff is to our work. It's been one of my privileges to work with many terrific staffers throughout my 28 years in Congress, men and women who have contributed to the first district in a wide variety of ways and whom I am proud to call friends today. But Colleen has always been the one constant. Few staffers survive, let alone thrive, for 37 years in what can be a stressful and demanding work environment. But what's behind that longevity? In Colleen's case, several things.

First is a real commitment to public service. Colleen never lost sight of our purpose here. She came to work every day determined to help the residents of the first district. She began her career as a caseworker, helping somebody get the VA benefits he'd earned or qualify for black lung benefits after a career in the mines, or maybe making sure someone else was getting the right social security check or helping an American stranded overseas with a visa problem. There's nothing abstract about that work; you see the results immediately and tangibly, and that was a lesson that Colleen applied to all of her work in my office—what we do up here matters to people and for that reason alone all of us need to do our best.

Another thing that Colleen brought to work every day was her honesty and the courage of that honesty. I learned early on not to ask Colleen's advice unless I were willing to hear something completely opposite of what I believed or hoped to hear. Colleen never hesitated to speak her mind to me, and, fortunately, she didn't always wait to be asked. I have always understood how important that quality is.

Honesty is only one measure of Colleen's personal integrity. She also has strength and compassion in equal measures. That is true in her personal life as well as her professional one. I know, for example, how deeply her parents came to rely on Colleen as they negotiated the not uncommon challenges of aging. They knew, as I do, that you can always rely on Colleen.

A Congressman's Chief of Staff generally has two major responsibilities. The first is to serve as principal adviser. I just touched on how important Colleen's counsel has been. The other role, of course, is building and managing a good staff, something at which Colleen has always excelled. She cares about people, supports them, and helps them grow, both professionally and personally.

The culture of my office has always been a positive one, and that is thanks in large part to Colleen's leadership. I speak for myself as well as scores of staffers over the years in thanking Colleen for a thousand kindnesses, large and small, visible and hidden. In a very real way, Colleen retires with two bodies of work. The first is her sizable contributions to the congressional work of my father and me. And the second is the large network of staffers who have benefited from her support and mentoring over the years. In both bodies of work, Colleen enters retirement knowing that she made a difference in people's lives, that she left things better than she found them. And what more satisfaction could one ask of any career?

I always dreaded the prospect of having to replace Colleen. She actually tried to retire once or twice but always made the mistake of asking me rather than telling me. My response never varied—"No, Colleen, I just don't think it's the right time." And it never was the right time, for me anyway. I simply relied on her too much.

Well, Madam Speaker, now it is, finally, the right time. As I prepare to leave office, I take with me many wonderful things. But few mean as much to me as the support and the friendship of Mary Colleen McCarty. My wife, Barbara, and I offer Colleen our warmest wishes for a wonderful retirement.

TO CELEBRATE THE 25TH ANNIVERSARY OF THOMAS JEFFERSON HIGH SCHOOL OF SCIENCE AND TECHNOLOGY

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to congratulate Thomas Jefferson High School for Science and Technology, TJHSST, on the occasion of its 25th Anniversary. Established in 1985, Thomas Jefferson High School for Science and Technology is the result of collaboration among the local and State leaders, Fairfax County Public Schools and the business community to improve education in science, mathematics, and technology.

Located in the heart of the 11th Congressional District of Virginia, TJHSST is the premier high school in the United States, and its success continues to make Fairfax County one of the most sought out communities in which to live and do business. It is one of 18 Governor's Schools in the Commonwealth of Virginia and is a founding member of the National Consortium of Specialized Secondary Schools of Mathematics, Science, and Technology.

In 2007, 2008, 2009, and 2010, TJHSST was ranked the best public school in the Nation by U.S. News & World Report and has fielded more National Merit Semifinalists than any other high school for most the 1990s and 2000s. Between 2000 and 2005, more TJHSST students qualified for the United States of America Mathematical Olympiad than from any other high school and the school has a distinguished history of U.S. Physics Olympiad Team participation and medal winners. In 2007, 2009, and 2010, TJHSST held the record for the highest number of Intel Science Talent Search Semifinalists. Seven Rhodes Scholars have graduated from TJHSST, more than the number of Rhodes Scholars at most colleges in the entire country.

Each year, more than 25 percent of the graduating class accepts admission to the University of Virginia. Other prominent colleges popular among the graduates include the College of William and Mary, Duke University, and Princeton University. A number of graduates also have accepted appointments to West Point or the U.S. Naval Academy, becoming officers in our Armed Forces.

The incredible success of TJHSST would not be possible without the commitment of an exceptional educational staff, the dedication of parents and families, and the determination and drive of the students. All work together to support the efforts of every student and help ensure that each will succeed in college and during their professional lives.

Madam Speaker, I ask that my colleagues join me in congratulating Thomas Jefferson High School for Science and Technology on its 25th Anniversary and in commending the community and the school for providing the very best education possible for our next great generation.

COMMEMORATING THE 96TH NATIONAL CONVENTION OF THE CHURCH OF GOD BY FAITH

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. CORRINE BROWN of Florida. Madam Speaker, I rise today to commemorate the 96th National Convention of The Church of God By Faith. The Church Of God By Faith was founded in 1914 for the expressed purpose of glorifying God in the beauty of "Holiness". The Founders, Crawford Bright, Elder John Bright, Aaron Matthews, Sr., and Nathaniel Scipplo had a desire to seek the quality of life and character which is set before Christians as an ideal guide and moral obligation. This bonding or coming together and consequent formation of the Church of God By Faith was to serve as a basis whereby believers could be encouraged, educated in the Word of God, strengthened, sustained, spiritually grow, and be united in an environment where the Spirit of Christ is truly active. The Church was materialized from the perceptional thought of foresighted, spiritually led and blessed individuals.

This enlightened tradition and founding principle is emboldened by its current spiritual leader, Bishop James E. McKnight, a man of great vision and purpose, whose leadership has spanned generations well into the present millennium and well poised for the future. We are indeed indebted to Bishop McKnight, all the Presiding Elders, Pastors, Officers and Members who, by faith and by practice, adhere to the founders' dreams and goals by maintaining the vibrancy and relevance of the Church of God By Faith for all its parishioners and the communities they serve.

Congratulations on the observance of this Ninety-Sixth National Convention on December 16–19, 2010, in Atlanta, Georgia.

COMMENDING DAVID L. CAVICKE

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BARTON of Texas. Madam Speaker, my Chief of Staff on the Energy and Commerce Committee, David L. Cavicke, will be leaving the Committee in January after nearly 16 years of service on the Committee. Staff work quietly out of the spotlight, and I want to take this occasion to commend David for the many issues on which he provided counsel to the Members of the Committee and for his leadership of the Committee staff as Chief of Staff.

David joined the Committee staff in 1995, early in the tenure of Chairman Tom Bliley and Speaker Newt Gingrich. He came to Washington in his '84 Chevy Caprice with six suits and a 486 computer, knowing no one and hoping to contribute to the public policy changes following the historic 1994 election. Tom Bliley hired David as the Committee finance counsel based on a keen intellect, a creative gift for policy ideas that manifested itself in some of the most important changes made to financial regulation in the 1990s, a sense of due process and willingness to listen to all sides of an issue, as well as a very good sense of humor.

David helped Tom Bliley and Newt Gingrich develop and pass milestone legislation that included the Private Securities Litigation Reform Act, the only public law to be enacted over President Clinton's veto.

He worked with Jack Fields and ED MARKEY to pass The National Securities Markets Improvement Act of 1996, which preempted state regulatory authority over national securities offerings; required consideration of efficiency, competition and capital formation in addition to investor protection as elements of SEC rulemakings; and also included the Bliley SEC Fee reduction agreement, which saved one billion dollars worth of fees over 10 years.

David was also the lead staffer on the Committee's efforts to pass the Gramm-Leach-Bliley Act that removed the Depression era's barriers between banking, investment and insurance. He worked closely with Republican Committee members and Democratic Committee members like JOHN DINGELL and ED MARKEY to see that investors' interests would be protected and that the sovereign credit of the United States would not be extended to guarantee underwriting activities by banks. Had the Congress accepted the Committee's work product rather than watering down these protections in Conference, we might have avoided some of the financial problems we experienced at the end of 2008. Other products of his work for the Committee were the Securities Litigation Reform Uniform Standards legislation, which first asserted federal jurisdiction over class action lawsuits in securities matters, as well as E-SIGN, which made digital signatures enforceable in electronic commerce, facilitating legal certainty for internet commerce.

In Billy Tauzin's chairmanship, David worked on investigations into financial fraud at Enron and Arthur Andersen. His expertise in financial markets and training as a Wall Street lawyer proved vital to the work we did to expose wrongdoing at those firms. This expertise made him the natural choice to depose the key executives at those firms. He subsequently worked on accounting standards, anti-spam legislation, anti-spyware initiatives and legislation to protect consumers' personal data, as well as leading staff investigations into accounting fraud at Fannie Mae and Freddie Mac.

When I became Chairman, I promoted David twice, first to be Committee General Counsel where he was a tireless advocate for the Committee's jurisdiction on behalf of Members of both parties. David made the arguments that finally caused the parliamentarians to recognize the Committee on Energy and Commerce's exclusive jurisdiction over telecommunications issues as a result of the passage of the Telecommunications Act of 1996.

I then promoted David to be Committee Chief of Staff in 2007. He was the first person on the Republican side to have been promoted to Chief of Staff directly from the staff since the beginning of the Gingrich era.

In his role as chief staff strategist for the loyal opposition on the Committee to the Obama Administration, David's command of details and marshalling of resources made possible a legendary 17-day stand by a handful of Republican Members (me, Nathan Deal, JOHN SHADEGG and the rest of the gang of 23) against passage of the wide-ranging health reform law. Similarly, his careful planning helped the emboldened Republican minority resist the Administration's global warming bill until it was shelved. He has been a vigorous advocate for transparency—be it in government, or health care pricing.

Since becoming Chief of Staff, David has become the second best Texas Hold 'em player on the Committee. He beat Howard Lederer, a world champion poker player, in heads up play in a charity tournament this year. As Chief of Staff, he always defended the prerogatives of the Committee and its Members, for which we are very grateful. My colleagues and I on the Committee will certainly miss his good counsel, his great admiration for the institutional importance of the Committee, and his good cheer.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 653, H.J. Res. 1776, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes, had I been present, I would have voted "no."

TRIBUTE TO CHAIRMAN BART GORDON

HON. JOHN GARAMENDI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GARAMENDI. Madam Speaker, I rise today to honor House Science and Technology Chairman BART GORDON.

Chairman GORDON understands that America is in a race—a race against other nations to invent the most advanced technologies in the world. And the stakes of this competition could not be higher. Only with the most advanced technological innovation can this Nation achieve economic growth, energy independence, and strengthen our national security.

For two decades, Chairman GORDON has risen to the challenge of catalyzing American ingenuity by spearheading leading science and technology policies. He requested a complete report on America's global competitiveness, Rising Above the Gathering Storm, and has steadfastly charged up this mountain of challenges. Chairman GORDON authored two landmark bills to enhance our competitiveness, the America COMPETES Act, which became law in 2007, and its reauthorization, which will be signed into law in these last days of 2010. Through these bills, the Chairman is dramatically improving STEM education, strengthening research and development, and restoring America's scientific edge. The Chairman has also lead initiatives to reuse electronic waste and to harness Nanotechnology, which could transform everything from cancer treatment to computers. In an increasingly partisan atmosphere, Chairman GORDON has kept alive the bi-partisan spirit of the Science committee.

I thank Chairman GORDON for his profound service to our Nation, and I urge Congress to carry on his legacy of boldly investing in America's future—science and technology.

THANK YOU TO THE PEOPLE OF THE 11TH CONGRESSIONAL DISTRICT OF PENNSYLVANIA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. KANJORSKI. Madam Speaker, over the last 26 years it has been an enormous honor and privilege to represent the people of the 11th congressional district of Pennsylvania as a member of this body, and I rise today to express my eternal appreciation to the people who gave me the extraordinary opportunity to serve them.

The youngest son of a lawyer and homemaker who was also a teacher, I was blessed to grow up in a loving, supportive family who

encouraged me to pursue even the most ambitious goals. Of all the values my parents imparted to their children, none was more important than education. My father, A. Peter Kanjorski, Jr., graduated from the Wharton School class of 1919 before completing law school at the University of Pennsylvania in 1922, while my mother Wanda Nedbalski Kanjorski graduated from Wyoming Seminary before obtaining her degree from Bloomsburg College. All four of my siblings also completed college; Wendy from Marywood College, Aloise from the Connecticut College for Women, A. Peter III from the Wharton School as well as the University of Pennsylvania law school, and Charie from the University of Florida. This tradition has continued to my parents' grandchildren, as all 13 have earned their college degrees and some have pursued graduate degrees. My daughter, Nancy, for example, has earned her doctorate in geophysics.

In light of the importance my parents placed on education, therefore, it was extremely distressing for them to realize that at the age of 10 I was still having great difficulty learning how to read, because of what I now realize was most probably an undiagnosed case of dyslexia. My mother and older sisters, most especially my sister Allie, became my personal tutors. Under their guidance, I became a voracious reader and eagerly consumed historical biographies. From reading about Arthur Vanderberg and Daniel Webster, I learned about congressional pages and convinced Congressman Ed Bonin, the representative for the 11th district of Pennsylvania, to appoint me in 1953. I met my lifelong best friend Bill Emerson when we started as pages together, and we were unfortunate witnesses to the first terrorist attack on the U.S. Capitol when Puerto Rican nationalists opened fire on the floor of the House on March 1, 1954.

Bill returned to Congress in 1981 as a Republican representative from Missouri, and I followed him 4 years later as a Democratic representative from Pennsylvania. Our political views were starkly different, but we respected one another's views and disagreed agreeably.

Those of us lucky enough to be citizens of the United States are privileged to be experiencing the noblest experiment the world has ever known: democratic self-governance. As representatives of the people, we in Congress must be the guardians of that experiment, and in the words of Abraham Lincoln, ensure that it does not perish from this earth. Our constituents have entrusted us to do our very best to make the United States a better place, the reason every one of us sought to serve in Congress. It is a sacred trust, and one I hope that no Member of Congress ever forgets.

The people of the 11th congressional district of Pennsylvania gave me a gift for which I will be forever grateful, and to them I would like to say thank you.

DAVID CAVICKE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. STEARNS. Madam Speaker, my friend, David Cavicke, Chief of Staff for the Republicans on the Committee on Energy and Commerce, is leaving the Committee in January after nearly 16 years of service. I and other Members of the Committee have benefited from David's sound counsel, tireless advocacy, policy entrepreneurship and relentless optimism. Like Ronald Reagan, Cavicke believes that you can accomplish anything if you don't worry about who gets the credit.

David was invaluable to the Committee during our investigations of financial fraud at Fannie Mae and Freddie Mac. He was early to identify that fraudulent accounting masked balance sheets with such volumes of toxic assets that the firms were likely to be insolvent. As a result of this work, David led the development of ideas to improve accounting and auditing standards in the Committee.

David also worked extensively on privacy and telecommunications issues during my tenure as Chairman of the Commerce, Trade, and Consumer Protection subcommittee and my term as Ranking Member on the Telecommunications subcommittee. He is a principled conservative. He also believes that facts and data should drive policy. He has worked with Democrats and Republicans at the FCC to promote the growth of broadband, more extensive deployment of spectrum and greater efficiencies in the universal service program. He has been an advocate for protecting consumers' privacy in the online world. He has been sensitive to the enormous technical difficulties of using statutes to micromanage internet commerce.

He is a gentlemen, a wise lawyer, an expert in the formal and informal procedures of Congress and scrupulously fair to persons of both parties. He has been a Chief of Staff in the best tradition of the Energy and Commerce Committee.

TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes:

Ms. ROYBAL-ALLARD. Mr. Chair, it is with a great deal of regret that I will vote against H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act.

Reaching this decision has not been easy because President Obama fought for and succeeded in getting several provisions into this bill which I wholeheartedly support.

Among those provisions is the extension of unemployment insurance for millions of American families who through no fault of their own have lost their jobs, the child tax credit, the middle class tax cuts, the earned income tax credit and tax breaks for small business. These were major victories for President Obama.

My concern is that the provisions in the bill demanded by Republicans come at too high a price and impact the future well being of our country and our children. Based on the calls I have received, the majority of my constituents agree.

According to economists the demands by Republicans to give the 6,600 wealthiest Americans a tax break of $23 billion will do nothing to stimulate our economy or create one job.

What this one provision alone will do, however, is increase our out of control deficit by another 8 percent. This is irresponsible and will make it even more difficult for our country to stop mortgaging our future to China; a mortgage which will ultimately fall on the backs of our children and our grandchildren in the years to come.

I also have a deep concern about this bill's impact on Social Security. My fear has to do with the 2 percent reduction in employee contributions to Social Security which has the potential to destroy the guaranteed safety net which keeps millions of older and disabled Americans out of poverty.

While this provision is intended to be temporary, I have learned in my 18 years in Washington that tax cuts are seldom temporary. It is always easier to cut taxes than it is to restore them as this very bill demonstrates.

The Social Security payroll tax provides an independent revenue stream which keeps Social Security from contributing to our nation's budget deficit and outside of the budget process.

If the payroll tax is not restored, which I believe is likely with a Republican majority in the House, Social Security would become dependent on the general fund for revenue.

This would threaten the safety net for seniors and the disabled by making it vulnerable to budget cuts and competition with other essential programs like veterans benefits and safety net programs for children.

By doing this, we could be sowing the seeds for the privatization of Social Security.

Therefore, while this bill does provide short term relief, the potential long term suffering and negative impact of this bill are too high a price to pay.

I cannot in good conscience support this bill with the potential long term negative impact on Social Security and the unnecessary increased burden the tax cuts for the wealthiest Americans will put on the shoulders of our children and grandchildren.

I am saddened that my Republican colleagues demanded these irresponsible tax cuts for the wealthiest Americans in exchange for the very critical provisions of this bill supported by the President. While I am heartened that we are acting to extend unemployment insurance and protect those still struggling to find work, there is too much in this bill that only adds to our already uncontrollable deficit and does nothing to help our economy or create jobs.

RECOGNIZING PRINCE WILLIAM COUNTY BEING NAMED ONE OF THE NATION'S ''100 BEST COMMUNITIES FOR YOUNG PEOPLE''

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize Prince William County, Virginia on being named one of the nation's ''100 Best Communities for Young People'' by America's Promise Alliance and ING.

The annual ''100 Best Communities for Young People'' competition began in 2005 and was established to honor communities that work to improve young people's chances of earning a high school diploma, finding employment in a competitive 21st century workforce, and contributing to a robust American economy. America's Promise Alliance advocates for providing youth with the resources they require to graduate from high school prepared for college, work and life. The global financial institution, ING, sponsors the awards.

This is the first year the ''100 Best'' list includes Prince William County. The county received the distinction for its efforts to offer students leadership opportunities and reach out to at-risk youth. Students in Prince William County who participate in the student committee, Learning Essential Assets of Development (LEAD), organize service projects to gain experience in practical planning, communication and decision-making. The county also partnered with private businesses to fund the construction and staffing of a community center and daycare facility in an at-risk neighborhood. Prince William County boasts an on time graduation rate of 88 percent, almost 20 percent higher than the national average.

Madam Speaker, I ask that my colleagues join me in congratulating Prince William County on being recognized as one of the nation's ''100 Best Communities for Young People.'' This is a well-deserved recognition for a county dedicated to providing a high quality of life for its residents and a world class education for its children.

RECOGNIZING THE CONTRIBUTIONS OF HARRIET JAN HILLMAN

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BURGESS. Madam Speaker, I rise today in recognition of Harriet Jan Hillman. After 23 years, Jan, as she is known by friends and coworkers, is retiring from her post as Executive Director of Planning and Assessment for Student Affairs at the University of North Texas in Denton, Texas.

In addition to her current position, since beginning her career at UNT in 1987 Ms. Hillman has served the Denton campus as Panhellenic Advisor, Director of Student Activities and Assistant Dean of Students. She has been an advocate for the Greek system and has continued to serve this student population over the last ten years even when outside of her assigned job responsibilities.

Ms. Hillman received her B.A. in Pre-Social Work at what was then known as Northeast Louisiana University. She then continued her education by earning both her M.Ed. and Ed.D. from the University of North Texas.

Ms. Hillman's devotion to the profession of student affairs has been evident through her membership in the Texas Association of College and University Student Personnel Administrators (TACUSPA), an organization she served as President from 1997–1998.

Additionally, Ms. Hillman has been active within the community through her active membership in Kiwanis, the Denton Chamber of Commerce and Leadership Denton. And, in 2006 she was selected as a member of the 2006 class of Leadership Texas.

It is with great honor that I rise today to recognize Jan Hillman for her years of dedication and service to the University of North Texas. I am proud to represent her and UNT in the United States Congress.

STATEMENT ON H.R. 3082, MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2011

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. McCARTHY of New York. Madam Speaker, the Continuing Resolution that passed in the House of Representatives today will keep the government funded at the current level through March, 2011, allowing operations to continue for programs that would otherwise have expired. Nationwide, we are continuing to recover from difficult economic times. It is more important than ever that the federal agencies and the programs they administer, which so many states and individuals depend on, receive the federal funding they need to operate without interruption.

During House floor consideration and passage of this legislation, I was unavoidably absent from Washington due to a family health emergency. However, I am pleased that my colleagues passed, this important legislation, which I strongly support.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 654, on motion to suspend the Rules and concur in the Senate Amendment to H.R. 2142, GPRA Modernization Act of 2010; had I been present, I would have voted ''no.''

RECOGNIZING COACH GENE STALLINGS FOR SELECTION TO COLLEGE FOOTBALL HALL OF FAME

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HALL of Texas. Madam Speaker, it is a great privilege to rise today in honor of a friend and celebrated native of Paris, Texas—legendary coach Gene ''Bebes'' Stallings who recently was inducted into the College Football Hall of Fame.

Coach Stallings embodies the best qualities of a coach, teaching his players not only how to play the game but always to give their best, win or lose. His journey began as a stand-out player at Paris High School and continued at Texas A&M University as a member of Paul ''Bear'' Bryant's famous Junction Boys. During his career at A&M, Gene was part of the team that finished 9–0–1, winning a Southwest Conference Championship in 1956. He graduated from Texas A&M University with a bachelor of science in 1957 and later earned an honorary degree from Harding University. After his playing days, Gene arrived at Alabama to be an assistant coach under Head Coach Paul ''Bear'' Bryant. He returned to Texas A&M University as head coach in 1965, coaching there until 1971. One of the most thrilling moments of his tenure as head coach at A&M was leading his alma mater to victory against his former coach at the 1968 Cotton Bowl.

For the next 18 years, Gene was a successful coach in the National Football League. For 14 years he served as an assistant coach for the Dallas Cowboys. He was a part of Tom Landry's very successful staff which led the Cowboys to victory in Super Bowl XII. Gene then became the head coach of the St. Louis Cardinals for two years, followed by two more years as head coach for the Phoenix Cardinals.

After a very successful tenure as a coach in the National Football League, Gene returned to college football and Alabama in 1990. His first year at Alabama started with a 0–3 record; however, because of his great leadership, his team improved, finishing the season with a 7–5 record. In 1992, Alabama's dominance began as they finished the season with a 13–0 record, becoming Southeastern Conference champions and winning the national championship against Miami. In 1993, the Crimson Tide won their second straight Southeastern Conference western division title and finished with a record of 9–3–1. In 1994, his team had an 11–0 regular season record. The Crimson Tide lost in the Southeastern Conference title game but defeated Ohio State in the Citrus Bowl. Gene's last year at Alabama was 1996, and his team won 10 games and earned a berth in the Southeastern Conference championship game against Florida. In 1996, Gene announced his retirement from football and completed his career at Alabama with a 70–16–1 record.

This astonishing record of achievement led to numerous awards and recognitions. Gene is a member of the Alabama Sports Hall of Fame, the Texas Sports Hall of Fame, the Texas A&M University Hall of Fame, the Gator Bowl Hall of Fame, and the Cotton Bowl Hall of Fame. He was named National Coach of the Year, American Football Coaches' Coach of the Year, Walter Camp Coach of the Year and received the Paul ''Bear'' Bryant Lifetime Achievement Award. In addition, he won the Southeastern Conference Coach of the year twice.

Gene not only deserves to be inducted into the College Football Hall of Fame but to be in another Hall of Fame—one that honors great fathers. His son, John Mark, was born with Down syndrome and a severe heart defect and lived to an age, 46, that many doctors felt

was impossible. Gene and Ruth Ann, his wife, provided their child with the most love, care and attention ever given to a child. John Mark was born during an era where a child with such a disability was often institutionalized. The Stallings included John Mark in every decision—family-wise or career-wise, and John Mark was a fixture at every game and practice of all his father's teams. One of Gene's greatest legacies will be the contributions that he and his family made to families with special needs' children.

In recognition of his humanitarian efforts, Gene received the Dallas Father of the Year Award, the National Boys Club Alumni of the Year Award, Arthritis Humanitarian Award of Alabama, Humanitarian Award of the Lion's Club of Alabama, and the Paris Boys Club Wall of Honor. The Stallings family was honored by the Tuscaloosa Association of Retarded Citizens as the Family of the Year. Their efforts and generosity toward the Rise program, a program which aids developmentally disabled toddlers for entry into public school and interaction with non-disabled students, were again acknowledged with the naming of the Stallings Building on the Alabama campus. In addition, Gene wrote a book about his son, John Mark.

Gene has also served as a valued and esteemed member of President George W. Bush's Commission on Intellectual Disability, the Board of Abilene Christian University, the Tandy Brand Corporation, People's National Bank of Paris, Paris Regional Medical Center, Disability Resources, the Texas Rangers Law Enforcement Association, the Great Southern Wood Corporation, and the Boys and Girls Club of Paris, Texas. In 2005, Governor Rick Perry appointed him to the Texas A&M Board of Regents, where he served as a member of the Committee on Finance, the Committee on Buildings and Physical Plant, and the Committee on Campus Art and Aesthetic. An additional responsibility as a member of the Board of Regents is his place as the special athletic liaison to the A&M Systems Members.

As the 111th Congress adjourns this week, I am honored to recognize the contributions of this great football coach and great American—Gene Stallings.

REPRESENTATIVE IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

SPEECH OF

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

RIGID AEROSHELL VARIABLE BUOYANCY AIR VEHICLE—ADVANCED TECHNOLOGY DEMONSTRATOR

Mr. SKELTON. Mr. Speaker, I am aware that the Force Transformation Directorate, within the Director, Defense Research and Engineering (DDR&E) Office, is developing an advanced, variable buoyancy, rigid-structure air vehicle with vertical take-off and landing (VTOL) capability and the ability to hover, all while operating at maximum weight. Known as the Pelican project, this effort has the potential to provide for airship technology capable of moving large payloads and brigade-sized units to a point of need.

Pelican could assist in establishing a new inter/intra-theater capability that could greatly increase heavy cargo lift capability and effectiveness, reduce the logistics footprint in theater, provide low cost and "green" cargo carriage, and could establish a new disaster relief capability.

The recent Haiti relief operation demonstrates the importance of this capability. Aircraft dependent on runways were initially turned away because there was insufficient ramp space. A VTOL heavy lift transport, requiring little support infrastructure, would have been immune to this problem. The new VTOL air-lift capability can reduce our dependence on foreign airbases and ports, as well as the effectiveness of anti-access strategies employed by our adversaries.

I encourage the Department to maintain development activities and to initiate plans for a capable 60 ton payload vehicle, ensuring close coordination and cooperation with the Air Force, Transportation Command and Air Mobility Command. I further recommend that this effort be made a program of record beginning in Fiscal Year 2013.

RECOGNIZING THE CONTRIBUTIONS OF JAMES MELTON STEELE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BURGESS. Madam Speaker, I rise today in recognition of James Melton Steele. Mr. Steele, known affectionately as "Jim" to his friends, family and members of the North Texas community was passionate for the Northwest Independent School District and its students. His memory and commitment to NWISD are appropriately commemorated with the Dedication of the James M. Steele Accelerated High School, the only school of its type in Texas, designed to provide students an alternative venue to complete high school at an accelerated pace.

Mr. Steele's early life allowed him to know both north Texas and west Texas as home. His family followed his father's railroad employment with positions in both the Fort Worth area and Baird, Texas where he attended school until 8th grade. His family returned to north Texas where he attended the Birdville School District and met Johnnie, who was the love of his life and eventually became his wife and mother to their two sons, Bruce and Brian.

James attended Arlington State College where he majored in business administration and developed a desire through his early work experiences to own his own business. He built and operated a concrete plant in Haltom City and later bought a small country store in Roanoke which eventually became Steele's Affiliated Country Market.

The Steele's raised their family in Roanoke and were active community members as he helped with sports activities and Johnnie volunteered to help the teachers at Roanoke Elementary. Mrs. Steele eventually made a career of education in NWISD and taught for 24 years before retiring from Gene Pike Middle School. As members of Roanoke Church of Christ, Byron Nelson encouraged Mr. Steele to become an Elder.

Mr. Steele's leadership and commitment led to encouragement from parents within the Northwest ISD to run for the school board. He became a member of the NWISD Board in 1975, serving as a Trustee for nine years, including his term as board president.

The Steeles' commitment to NWISD is a family legacy as both of their sons and their grandchildren, Chris and Tara, graduated from Northwest High School. Bryson James Steele, one of three great-grandchildren, currently attends Kay Granger Elementary. The Steeles' other two great-grandchildren, Caroline Doshier and Brayden Steele, will eventually attend school at NWISD.

It is with great honor that I rise today to recognize James M. Steele and his commitment to Northwest Independent School District. I am honored to represent Northwest ISD, the town of Roanoke and the Steele family in the United States Congress.

HONORING ACHIEVEMENTS OF AMBASSADOR RICHARD HOLBROOKE

SPEECH OF

HON. RUSS CARNAHAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. CARNAHAN. Mr. Speaker, this week, the world lost a legendary diplomatic figure and master peace negotiator. Ambassador Richard Holbrooke may no longer be with us, but his presence is timeless, as he leaves behind the invaluable lessons of his life's work.

Among his many accomplishments as statesman and steadfast advocate for greater stability throughout the world, Ambassador Holbrooke's most famous contribution to the mission of global peace was his role as chief architect of the Dayton Peace Accords, ending more than three years of bloody war in Bosnia and Herzegovina. Up against deep-seated multi ethnic and religious divisions, a war-torn economy, and lacking government infrastructure, his unwavering commitment to establishing a peace worthy of America's name was fundamental to leading the accords to successful resolution.

As the United States considers a new way forward to reinvigorate Israeli-Palestinian peace negotiations, Ambassador Holbrooke's memory serves as a powerful reminder of what can be achieved with persistent engagement, pragmatic diplomacy, and impassioned belief—not only in the necessity for resolution, but also in the ability for differing peoples to come together in the name of a common humanity.

The United States remains unwaveringly committed to ensuring Israeli security and its future as a Jewish democratic state, both as a moral imperative and as a crucial strategic relationship. While we have worked to maximize Israel's security, through military partnership and sanctions aimed to prevent Iranian nuclear capabilities, the fact remains, however, that Arab-Israeli tensions pose very real threats to Israeli and regional stability. Now is the time to ever more fervently pursue resolution to the issues that stand in the way of peace: borders, security, settlements, refugees, and Jerusalem.

As Founder and Co-Chair of the American Engagement Caucus, I firmly believe that U.S. leadership is paramount to the success of peace negotiations, and we must make a

strong push for a negotiated two-state solution that allows for substantial buy-in from Israelis, Palestinians, and the international community—unilateral actions will only serve to deteriorate progress and deter future collaboration. Let us call on the lessons of Ambassador Holbrooke's work and the strength and resilience of all those affected by conflict in Bosnia to pursue a lasting peace between Arabs and Israelis.

A TRIBUTE IN HONOR OF THE LIFE OF GOODWIN STEINBERG

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. ESHOO. Madam Speaker, I rise to honor the life of Goodwin Steinberg, a renowned architect and an active and affectionate community builder, who died on December 14, 2010. For half a century, Goody Steinberg designed and developed spaces for professional, civic and sacred uses. He was a giant who will be missed by his family, his friends, and everyone who was touched by his wise, wonderful and gentle ways.

As his grandchildren remembered their grandfather at his memorial service at Temple Beth Am—the magnificent structure he designed which is now home to some 1,600 families—their heartfelt words, and the very woodwork, paid eloquent tribute to this extraordinarily talented, creative, and caring community member. One after another, they spoke of how valued he made them feel, and how they knew that they were cherished. This love for family was the essence of Goody Steinberg, and we all benefited from it.

The projects that Goody designed are now iconic symbols of Silicon Valley and its development from the fruit-growing Valley of the Hearts Delight into the equally fruitful birthplace of ideas and innovation that it is today. Beth Am, designed so that his daughter could attend a religious school to learn Jewish traditions, is a much loved "house of the people," the Hebrew translation of its name. Indeed, everywhere people gathered, Goody transformed into a house of the people. In his nearly half-century career as an architect, he designed the restoration of the Santa Clara County Courthouse, the Tech Museum of Innovation and the Del Monte Hotel in Monterey. The campus of Stanford University and the entire San Francisco Peninsula bear the indelible mark of his warm and welcoming designs, infused with light, love and laughter.

Goody served his community well, and glowed with justifiable pride in the community involvement and contributions of his family, proud of their generosity and accomplishments. His wife Geraldine served with distinction on the Santa Clara County Board of Supervisors in the 1970s, and nothing made Goody happier than the day his son Robert joined the family business, Steinberg Architects, now an international architectural firm with offices as far afield as Shanghai.

Madam Speaker, I ask my colleagues to join me in honoring Goodwin Steinberg's exemplary life and his multitude of accomplishments. I ask also that the entire House of Representatives extend its most sincere condolences to his wife of 66 years, Geraldine; his children Robert (and Alice Erber) of Palo Alto, Thomas (and Shaindel) of New York and Jerusalem, and Joan Laurence of Tsfat, Israel; his 11 grandchildren, and his late grandson Jacob Erber Steinberg; three great grandchildren; and sisters, Sylvia and Darlene.

On entering a synagogue, Jews begin the Ma Tovu, a prayer of awe and reverence for their sacred spaces, with the words, "How goodly are your tents, O Jacob, your dwelling places, O Israel!" As Beth Am congregants enter the sanctuary he designed, they will forever be reminded of Goody Steinberg and the goodly tents he established everywhere he went. He built this city on rock and soul, from the ground up, and his family and his designs stand as magnificent memorials to Goody Steinberg's extraordinary creativity and humanity. America has been bettered in so many ways because of him.

'O WHAT A GAL IN HONOR OF OPRAH WINFREY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. EDWARDS of Texas. Madam Speaker, on behalf of a friend who works every day to bring wounded warriors and Make a Wish youth to our Capitol, I would like to include the following in the CONGRESSIONAL RECORD at his request.

Dedicated to Oprah Winfrey, the Promise of American . . . and what dreams, courage and faith are made of. Your life and your example, are one more watershed moment in time . . . in the healing and the growth of America! May God Bless you always, as you have blessed so many others with your kind heart. I ask that this poem penned in honor of Oprah Winfrey by Albert Caswell be placed in the RECORD.

'O WHAT A GAL!

'O . . . What a Gal!
'O what a Woman, 'O what a Lady . . . who so stands before us now!
'O . . . what A Great American Tale. . . .
And 'O, what a journey, through life in her profiles in courage, so now . . .
'O, The American Dream . . .
'O, The Promise of what all of this so means . . . to be American and so very proud!
'O, from the bottom to the top . . .
'O, as against all odds . . . even with all that discrimination and hatred, she would not be stopped!
From fields of slavery of yesteryears,
'O . . . as her loved ones in heaven, now watch over her with tears!
Oprah!
Teaching us all, with your lessons of life . . . of answering its quest and its call!
To be a champion of what is right!
With your heart of kindness, all in your search of the truth as you went out into that night . . .
All in your warmth and love, as you fought that fight!
Teaching us all . . . that, 'O . . . Black is Beautiful!
All on her pilgrimage of truth and caring, sharing, loving and teaching . . . she brought her light.
'O, the proof of what one life can mean!
An American Heroine, as now almost like an American Queen . . .
'O, in this our world . . . and in our lives!
Will we so find the courage? . . . The Sacrifice? . . . To Fight, To Fight The Good Fight?
To make a difference, with these our so short lives!
'O, an American hero . . .touching our hearts, bringing your light!
Oprah Winfrey, is a Winner . . . A Light . . . A Great Beacon of Hope . . . of which shines this night!
The power of hope and courage . . .
All determination, and faith can so nourish what is right!
'O, Win your Heart is open!
Win you believe! Win . . . your heart is Free! There's nothing you can not so be!
Win . . . you stop to believe!
Win . . . you take from pain and heartache, and rebuild . . . we all can be Free!
Children, Win . . . your . . . Free!
There's nothing, that you can not so do! There's nothing, that you can not so be!
Listen my children, as your future dreams you are building . . . remember, Oprah Winfrey!

Daily Digest

HIGHLIGHTS

Senate agreed to the motion to concur in the amendment of the House to the amendment of the Senate to H.R. 3082, Full-Year Continuing Appropriations Act, with an amendment.

Senate

Chamber Action

Routine Proceedings, pages S10849–10934

Measures Introduced: One bill was introduced, as follows: S. 4051. **Pages S10929–30**

Measures Reported:

Report to accompany S. 2889, to reauthorize the Surface Transportation Board. (S. Rept. No. 111–380)

Report to accompany S. 3302, to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public. (S. Rept. No. 111–381)

Report to accompany S. 3566, to authorize certain maritime programs of the Department of Transportation. (S. Rept. No. 111–382)

S. 1633, to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, with an amendment in the nature of a substitute.

S. 2982, to combat international violence against women and girls, with an amendment in the nature of a substitute.

S. 3798, to authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum human standards of health, sanitation, and safety, with an amendment in the nature of a substitute.

S.J. Res. 37, calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act, with an amendment in the nature of a substitute and with an amended preamble.

S. Con. Res. 71, recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts, with an amendment in the nature of a substitute and with an amended preamble. **Page S10929**

Measures Passed:

Federal Water Pollution Control: Senate passed S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution, after agreeing to the following amendment proposed thereto: **Page S10933**

Harkin (for Cardin) Amendment No. 4917, in the nature of a substitute. **Page S10933**

Energy Policy and Conservation Act: Senate passed H.R. 5470, to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act. **Page S10933**

Indian Pueblo Cultural Center Clarification Act: Senate passed H.R. 4445, to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico. **Pages S10933–34**

Ohkay Owingeh Pueblo: Senate passed S. 3903, to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo, after agreeing to the committee amendments. **Page S10934**

House Messages:

Full-Year Continuing Appropriations Act: By 79 yeas to 16 nays (Vote No. 289), Senate agreed to the motion to concur in the amendment of the House to the amendment of the Senate to H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, with

Reid Amendment No. 4885 (to the House amendment to the Senate amendment), of a perfecting nature, after taking action on the following amendments and motions proposed thereto: **Page S10852**

Withdrawn:

Reid Amendment No. 4886 (to Amendment No. 4885), to change the enactment date.

Pages S10852, S10885

During consideration of this measure today, Senate also took the following action:

By 82 yeas to 14 nays (Vote No. 288), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid Amendment No. 4885 (listed above). **Pages S10853, S10868**

Reid motion to refer the message of the House on the bill to the Committee on Appropriations, with instructions, Reid Amendment No. 4887, to provide for a study, fell when cloture was invoked on the motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid Amendment No. 4885. **Pages S10852, S10868**

Reid Amendment No. 4888 (to (the instructions) Amendment No. 4887), of a perfecting nature, fell when Reid Amendment No. 4887, fell.

Pages S10852, S10868

Reid Amendment No. 4889 (to Amendment No. 4888), of a perfecting nature, fell when Reid Amendment No. 4888, fell. **Pages S10852, S10869**

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that Senator Webb be authorized to sign any duly enrolled bills and joint resolutions beginning December 27, 2010 through 11:59 a.m., Monday, January 3, 2011.

Page S10934

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms—Agreement: Senate continued consideration of Treaty Doc. 111–5, between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol, taking action on the following amendments proposed thereto: **Page S10888–21**

Adopted:

Kerry (for Kyl) Amendment No. 4864, to require a certification that the President intends to modernize the triad of strategic nuclear delivery vehicles.

Page S10915

Kerry (for LeMieux) Modified Amendment No. 4908, to require negotiations to address the disparity between tactical nuclear weapons stockpiles.

Pages S10915–21

Rejected:

By 32 yeas to 63 nays (Vote No. 293), Ensign Amendment No. 4855, to amend the Treaty to provide for a clear definition of rail-mobile missiles.

Pages S10894–99, S10903

Risch Amendment No. 4878, to provide a condition regarding the return of stolen United States Military equipment. (By 61 yeas to 32 nays (Vote No. 294), Senate tabled the amendment.)

Pages S10899, S10903–04

By 34 yeas to 59 nays (Vote No. 295), Wicker/Kyl Amendment No. 4895, to provide an understanding that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

Pages S10904–06, S10913

By 31 yeas to 62 nays (Vote No. 296), Kyl Amendment No. 4860, to require a certification that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty. **Pages S10906–09,S10913–14**

By 30 yeas to 63 nays (Vote No. 297), Kyl Amendment No. 4893, to provide that the advice and consent of the Senate to ratification of the New START Treaty is subject to an understanding regarding the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting, is subject to the United States and the Russian Federation reaching an agreement regarding access and monitoring, and is subject to a certification that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty. **Pages S10909–13, S10914–15**

Pending:

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

Page S10888

During consideration of this treaty today, Senate took the following action:

By 67 yeas to 28 nays (Vote No. 292), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the treaty. **Page S10888**

A unanimous-consent agreement was reached providing for further consideration of the treaty at approximately 9 a.m., on Wednesday, December 22, 2010, and that the time during adjournment or period of morning business count post-cloture. **Page S10934**

Nominations Confirmed: Senate confirmed the following nominations:

By 56 yeas 39 nays (Vote No. EX. 290), Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio.

Pages S10885–87

By 58 yeas 37 nays (Vote No. EX. 291), William Joseph Martinez, of Colorado, to be United States District Judge for the District of Colorado.

Pages S10885–88

Messages from the House: **Pages S10928–29**

Additional Cosponsors: **Page S10930**

Statements on Introduced Bills/Resolutions: **Pages S10930–32**

Additional Statements: **Pages S10927–28**

Amendments Submitted: **Pages S10932–33**

Authorities for Committees to Meet: **Page S10933**

Record Votes: Ten record votes were taken today. (Total—297) **Pages S10853, S10885, S10887, S10888, S10903, S10903–04, S10913, S10914**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 11:05 p.m., until 9 a.m. on Wednesday, December 22, 2010. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10934.)

Committee Meetings

(Committees not listed did not meet)

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 10 public bills, H.R. 6560–6569 were introduced.

Pages H8940–41

Additional Cosponsors: **Page H8941**

Reports Filed: Reports were filed today as follows:

H.R. 6116, to reform the financing of House elections, and for other purposes (H. Rept. 111–691, Pt. 1);

H. Res. 1781, providing for consideration of the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; providing for consideration of the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; and providing for consideration of the Senate amendment to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council (H. Rept. 111–692);

H.R. 2811, to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal, with an amendment (H. Rept. 111–693); and

H. Res. 1782, providing for consideration of the Senate amendment to the House amendment to the Senate 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 30, 2010 (H. Rept. 111–694). **Page H8941**

Chaplain: The prayer was offered by the guest chaplain, Monsignor Stephen J. Rossetti, Catholic University of America, Washington, DC. **Page H8787**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Shark Conservation Act: Concurred in the Senate amendment to H.R. 81, 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;

Pages H8790–92

Diesel Emissions Reduction Act of 2010: Concurred in the Senate amendments to H.R. 5809, to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program; **Pages H8792–98**

Defense Level Playing Field Act: H.R. 6540, to require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage

that an offeror may possess, by a ⅔ yea-and-nay vote of 325 yeas to 23 nays, Roll No. 658;

Pages H8798–H8801, H8819–20

Protecting Students from Sexual and Violent Predators Act: H.R. 6547, to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees, by a ⅔ yea-and-nay vote of 314 yeas to 20 nays, Roll No. 663; **Pages H8801–02**

Section 202 Supportive Housing for the Elderly Act: S. 118, to amend section 202 of the Housing Act of 1959 and to improve the program under such section for supportive housing for the elderly;

Pages H8802–06

Frank Melville Supportive Housing Investment Act: S. 1481, to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities; **Pages H8806–11**

Anti-Border Corruption Act of 2010: S. 3243, to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel;

Pages H8811–13, H8893

Northern Border Counternarcotics Strategy Act of 2010: Concurred in the Senate amendment to H.R. 4748, to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy;

Pages H8813–14

Pre-Disaster Mitigation Act: Concurred in the Senate amendment to H.R. 1746, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency; and **Pages H8814–17**

Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010: S. 2925, amended, to establish a grant program to benefit victims of sex trafficking. **Pages H8893–H8901, H8915**

Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules: H. Res. 1771, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules and providing for consideration of motions to suspend the rules, by a yea-and-nay vote of 199 yeas to 151 nays, Roll No. 657, after the previous question was ordered without objection. **Pages H8817–19**

America COMPETES Reauthorization Act of 2010: The House concurred in the Senate amendment to H.R. 5116, to invest in innovation through research and development and to improve the competitiveness of the United States, by a yea-and-nay vote of 228 yeas to 130 nays, Roll No. 659.

Pages H8817, H8820–52, H8890–91

H. Res. 1781, the rule providing for consideration of the Senate amendment to the bill (H.R. 5116), the Senate amendments to the bill (H.R. 2751) and the Senate amendment to the bill (H.R. 2142) was agreed to by voice vote after the previous question was ordered without objection. **Page H8817**

National Committee on Vital and Health Statistics—Appointment: The Chair announced the Speaker's appointment of the following member to the National Committee on Vital and Health Statistics for a term of 4 years: Dr. Vickie M. Mays of Los Angeles, CA. **Page H8852**

Commission on Key National Indicators—Appointment: The Chair announced the Speaker's appointment of the following members to the Commission on Key National Indicators: Dr. Stephen Heintz of New York, NY and in addition, Dr. Marta Tienda of Princeton, NJ. **Page H8852**

Order of Procedure: Agreed by unanimous consent that the Speaker may postpone further proceedings on the following measures as though under clause 8(a)(1)(A) of rule XX: Motion to concur in the Senate amendments to H.R. 2142 and motion to concur in Senate amendment to H.R. 2751. **Page H8852**

Government Efficiency, Effectiveness, and Performance Improvement Act of 2010: Concurred in the Senate amendment to H.R. 2142, to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, by a yea-and-nay vote of 216 yeas to 139 nays, Roll No. 660.

Pages H8852–61, H8891–92

H. Res. 1781, the rule providing for consideration of the Senate amendment to the bill (H.R. 5116), the Senate amendments to the bill (H.R. 2751) and the Senate amendment to the bill (H.R. 2142) was agreed to by voice vote after the previous question was ordered without objection. **Page H8861**

FDA Food Safety Modernization Act: Concurred in the Senate amendments to H.R. 2751, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply, by a ⅔ yea-and-nay vote of 215 yeas to 144 nays, Roll No. 661.

Pages H8861–90, H8892

H. Res. 1781, the rule providing for consideration of the Senate amendment to the bill (H.R. 5116), the Senate amendments to the bill (H.R. 2751) and the Senate amendment to the bill (H.R. 2142) was agreed to by voice vote after the previous question was ordered without objection. **Page H8861**

Suspension—Proceedings Resumed: The House agreed to suspend the rules and pass the following measures which was debated on Friday, December 17th:

First Lieutenant Robert Wilson Collins Post Office Building Designation Act: S. 3592, to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building". **Page H8893**

Military Construction and Veterans Affairs Appropriations Act, 2010: The House concurred in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, by a yea-and-nay vote of 193 yeas to 165 nays, Roll No. 662. **Pages H8893, H8901–15**

H. Res. 1782, the rule providing for consideration of the Senate amendment, was agreed to by voice vote after the previous question was ordered without objection. **Pages H8914–15**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow, December 22nd. **Page H8916**

Speaker Pro Tempore: Read a letter from the Speaker wherein she appointed Representative Edwards (MD) or, if she is not available, Representative Connolly (VA) to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Eleventh Congress. **Page H8916**

Commission on Key National Indicators—Appointment: Read a letter from Representative Boehner, Minority Leader, in which he appointed the following members to the Commission on Key National Indicators: Mr. Marcus Peacock of Washington, DC and Mr. Tomas J. Philipson of Chicago, IL. **Page H8916**

Indian Law and Order Commission—Appointment: Read a letter from Representative Boehner, Minority Leader, in which he appointed the following member to the Indian Law and Order Commission: Mr. Thomas Gede of San Francisco, CA. **Page H8916**

United States-China Economic and Security Review Commission—Reappointment: Read a letter from Representative Boehner, Minority Leader, in which he reappointed Mr. Larry Wortzel to the United States-China Economic and Security Review Commission, effective January 1, 2011. **Page H8916**

Senate Messages: Messages received from the Senate today and messages received from the Senate by the Clerk and subsequently presented to the House today appear on pages H8789, H8852, H8860.

Senate Referrals: S. 118 and S. 3481 were held at the desk. **Page H8852**

Quorum Calls—Votes: Seven yea-and-nay votes developed during the proceedings of today and appear on pages H8818–19, H8819-20, H8890, H8891, H8892, H8914–15, H8915. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:40 p.m.

Committee Meetings

SENATE AMENDMENTS TO THE FOLLOWING—AMERICA COMPETES REAUTHORIZATION ACT; FDA SAFETY MODERNIZATION ACT; AND THE GPRA MODERNIZATION ACT

Committee on Rules: Granted, by voice vote, rule providing for the consideration of the Senate amendment to H.R. 5116, the America COMPETES Reauthorization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Science and Technology that the House concur in the Senate amendment to H.R. 5116. The rule provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment shall be considered as read.

The rule provides for the consideration of the Senate amendments to H.R. 2751, the FDA Food Safety Modernization Act. The rule makes in order a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendments to H.R. 2751. The rule provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule

provides that the Senate amendments shall be considered as read.

The rule provides for the consideration of the Senate amendment to H.R. 2142, the GPRA Modernization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Oversight and Government Reform that the House concur in the Senate amendment to H.R. 2142. The rule provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. Finally, the rule provides that the Senate amendment shall be considered as read.

CONTINUING APPROPRIATIONS AND SURFACE TRANSPORTATION EXTENSIONS ACT, 2011

Committee on Rules: The Committee granted, by a non-record vote, a rule for consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 3082, the Continuing Appropriations and Surface Transportation Extension Act, 2011. The rule makes in order a motion offered by the chair of the Committee on Appropriations that the House concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082. The rule provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment shall be considered as read.

Joint Meetings

No joint committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1225)*

H.R. 2480, to improve the accuracy of fur product labeling. Signed on December 18, 2010. (Public Law 111–313)

H.R. 3237, to enact certain laws relating to national and commercial space programs as title 51, United States Code, ''National and Commercial Space Programs''. Signed on December 18, 2010. (Public Law 111–314)

H.R. 6184, to amend the Water Resources Development Act of 2000 to extend and modify the program allowing the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits. Signed on December 18, 2010. (Public Law 111–315)

H.R. 6399, to improve certain administrative operations of the Office of the Architect of the Capitol. Signed on December 18, 2010. (Public Law 111–316)

H.J. Res. 105, making further continuing appropriations for fiscal year 2011. Signed on December 18, 2010. (Public Law 111–317)

S. 3789, to limit access to social security account numbers. Signed on December 18, 2010. (Public Law 111–318)

S. 3987, to amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors. Signed on December 18, 2010. (Public Law 111–319)

S. 3817, to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988 to reauthorize the Acts. Signed on December 20, 2010. (Public Law 111–320)

COMMITTEE MEETINGS FOR WEDNESDAY, DECEMBER 22, 2010

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings are scheduled.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9 a.m., Wednesday, December 22

Senate Chamber

Program for Wednesday: Senate will continue consideration of the New START Treaty.

Next Meeting of the HOUSE OF REPRESENTATIVES

11 a.m., Wednesday, December 22

House Chamber

Program for Wednesday: To be announced.

Extensions of Remarks, as inserted in this issue

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