United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, TUESDAY, APRIL 28, 2009 No. 63

Senate

The Senate met at 10 a.m. and was called to order by the Honorable MARK WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray:

Almighty God, our guard and guide, look with mercy upon our Senators in these challenging times. Draw them close to You and to each other in humility, so that they will sincerely seek to find common ground. Spare them from arrogating to themselves the judgments which belong only to You. As they seek to confront history's surprises, may they lean not upon their abilities but put their ultimate trust in You. Prepare them to expect and celebrate the healing intervention of Your powerful providence. Remind them that You are waiting to bless them and have specific answers to their questions as they listen for Your voice.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 28, 2009.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to executive session to consider the nomination of Kathleen Sebelius to be Secretary of Health and Human Services. There will be up to 8 hours for debate prior to a vote, with a 60-vote affirmation required for confirmation. That is by agreement.

I would indicate we have a few speakers on our side but not 4 hours worth. In fact, if we get up to an hour, it will be a surprise to me. So we will yield back a lot of that time.

At 12 noon we will vote on passage of the Fraud Enforcement and Recovery Act.

The Senate will recess from 12:30 until 2:15 today for our weekly caucus luncheons. Following the caucus recess, the Senate will resume debate on the Sebelius nomination, with the vote expected sometime later in the afternoon or evening.

Last night, the budget conferees filed a conference report accompanying the budget resolution. We expect to consider the conference report sometime tomorrow.

Finally, I expect the Senate to begin consideration of housing legislation this week. We have not finalized that with the distinguished Republican leader and members of his caucus, but I think we are getting very close. What we anticipate—I have filed, under rule XIV, the House-passed bill minus the bankruptcy provision. It is contemplated that the first amendment will be offered by Senator DURBIN, to put the bankruptcy provision back in the bill. Then after that, we would take a look at the bill to see if anything else needed to be done. But the Durbin amendment would include just the bankruptcy language. There are issues in this dealing with FDIC and other things we are told the banking community and financial world needs, and we will take a look at that. That is how we will get to that legislation. We hope to do that within the next 24 hours or something like that.

I have indicated to the Republican leader that the next nomination we are concerned about is Tom Strickland, the Chief of Staff of the Secretary of Interior. I had good conversations with Senator BUNNING last week. He has some questions he wants answered. He put that in writing to the Secretary. That has been all taken care of. Senator BUNNING said he was not worried about delaying the vote but he wants an opportunity to be able to speak in regard to him, and I think there are other Senators who feel the same way, so hopefully we can work that out.

Then we are going to the credit card legislation, which was reported out of the Banking Committee. That is something that will not be real easy to do, but polling numbers indicate that almost 90 percent of the American people want us to do something with credit cards so it is something we have to do.

I have talked with the Republican leader about other things we wish to try to accomplish before we leave here during this spring period.

RECOGNITION OF THE MINORITY LEADER

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

GUANTANAMO BAY

Mr. MCCONNELL. Mr. President, tomorrow night in Berlin, Attorney General Holder is scheduled to deliver a speech about the administration's plan to shut down the detention facility at Guantanamo Bay by the arbitrary deadline of January 2010.

Many Americans are skeptical of the administration's decision to close Guantanamo before it has a plan to deal with the 240 terrorists who are currently housed there. And Americans were rightly alarmed by recent news reports that the administration is considering releasing some Guantanamo detainees into the U.S.—not to detention facilities, but directly into our neighborhoods.

Aside from the question of why the Attorney General thinks a German audience should hear about the administration's plans for Guantanamo before the American people do, there are a number of questions about the administration's plan for releasing terrorists into the United States that I hope the Attorney General will address tomorrow night.

Queston No. 1: What is the legal basis for bringing these terrorist-trained detainees to the United States, given that Federal law specifically forbids the entry of anyone who endorses or espouses terrorism, has received terrorist training, or belongs to a terrorist group? That is U.S. law.

Question No. 2: Can the administration guarantee the safety of the American people, particularly in the neighborhoods where these terror-trained detainees will live?

Question No. 3: Will the residents of the communities where these men will be released be made aware of it?

Question No. 4: Will these trained terrorists be allowed to travel freely anywhere in the United States?

Question No. 5: What will their status be? Will they be allowed to stay here permanently? Will they be eligible for citizenship? Will they receive or be eligible to receive taxpayer funding? Why did no other country agree to accept them? What threat do these men pose of returning to terrorist activities and what threat assessments have been conducted to evaluate whether these men will attack U.S. troops on the battlefield or Americans at Embassies abroad?

There are now less than 300 days until the President's Executive order mandates the closure of the secure detention facility at Guantanamo and the transfer or release of its remaining detainees. I recognize the difficulty of the challenge these detainees present, but we shouldn't let an arbitrary deadline and a desire to appease critics overseas lead to decisions that make American citizens less safe.

I yield the floor.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF KATHLEEN SEBELIUS, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Kathleen Sebelius, of Kansas, to be Secretary of Health and Human Services.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 8 hours of debate equally divided and controlled between the leaders or their designees.

The Senator from Montana is recognized

Mr. BAUCUS. Mr. President, the Senate confirmed the first member of President Obama's Cabinet more than 3 months ago. Today, we are here to finish the job.

It has taken some time to get here. But now we have a great nominee to be Secretary of Health and Human Services.

Today, we will vote to confirm the nomination of Governor Kathleen Sebelius to be Secretary of HHS. She is the right person for the job.

Governor Sebelius comes to us with a long list of qualifications. She is a true public servant. For more than 6 years, she has served as Governor of Kansas. For 8 years, she served as the Kansas Insurance Commissioner. And for 8 years before that, she served in the Kansas State Legislature.

Governor Sebelius has devoted a career to serving the public. She understands the legislative process. She understands the administrative process. And she has experience working with the private sector, too. Governor Sebelius has earned the respect of Republicans and Democrats alike.

Governor Sebelius knows a lot about health care. She is committed to protecting people and getting them the health care that they need. As Governor, she worked hard to make sure that Kansans—especially kids—had access to quality health insurance that they could afford. And as Insurance Commissioner, Governor Sebelius blocked a merger that would have made insurance unaffordable.

In addition to protecting consumers, Governor Sebelius also recognizes the need to bring businesses together to make our health care system work.

As Governor, she worked hard to make health care costs more manageable for businesses. And she worked to get more small businesses to offer health insurance coverage. Governor Sebelius doubled the small business tax credit.

Governor Sebelius' record shows that she approaches problems from all sides. She is prepared to try creative solutions. She is forward-thinking. She is willing to work with everyone. And she is not afraid to lead—even when faced with difficult choices and resistance to change. That is just the kind of leadership that we need in the Secretary of Health and Human Services.

Governor Sebelius has proven that she is willing to work hard and it is a good thing because we have a lot of work to do.

Our health care system is broken. We spend more than any other country on health care—more than $2.4 trillion annually—and we don't even cover all Americans.

Forty-six million Americans lack health insurance, and another 25 million Americans are underinsured—they have some coverage but not enough to keep their medical bills manageable. That is why medical debt contributes to half of all bankruptcies—affecting about 2 million people a year.

American families are struggling to keep up with the high costs of health care. And American businesses are straining to absorb these rising costs while trying to stay competitive at home and abroad.

The path that we are on is not sustainable. We must inform our health care system and we must do it now. Failure to address problems in the health care system will undermine our efforts to restore the economy.

We need a health care system that meets all of our needs. A high-performing health care system would guarantee all Americans affordable, quality coverage no matter their age, health status, or medical history.

Health care reform will help to stabilize our economy and it will make sure that we are prepared to handle our long-term fiscal challenges.

Congress has made a good start toward reform. But there is still a long way to go.

Last year, we in the Finance Committee started the process by holding ten different health reform hearings. We learned about the problems in our current system and started to develop solutions.

In June, along with my colleague CHUCK GRASSLEY, I hosted a day-long health care summit for the Finance Committee at the Library of Congress.

We engaged our colleagues in the process early on. In November, I released a white paper, ''A Call to Action,'' to outline my vision for health care reform. Since then, I have been

working closely with Senator GRASSLEY and the Senators on the Finance Committee. I have been working with other Senators as well, especially Senator KENNEDY and the HELP Committee, to come up with meaningful, comprehensive health reform legislation we could pass this year.

Last week, the Finance Committee held the first of three roundtables. We discussed delivery system reform. Tomorrow we are walking through some policy options. In the coming weeks, we will have two more roundtables and work through other policy options in other areas.

Senators will weigh the options. They will contribute to the process. By June, we will be ready for a Finance Committee markup. We are working together to make good progress, but Congress cannot do this alone. Congress needs a strong partner at HHS to pass comprehensive health reform.

We are developing a framework that will change how health care is delivered. But we need a first-class Secretary and team at HHS to help get reform off the ground and to make it work. I look forward to working with Governor Sebelius to make sure our bill can be implemented. I wish to make sure we send the Secretary a product that sets the rules of the game. We wish to make sure we also give the Department and agencies the flexibility they will need to play their part effectively.

It will be a long and iterative process, with a lot of back and forth. I am pleased we will be able to get started quite soon.

Governor Sebelius is the right person for the job. She has political experience, determination, and a bipartisan work ethic to get the job done. She has been an insurance commissioner, and she knows the nuts and bolts of the health care system. She has been a Governor, so she knows how to work with Democrats and with the Republicans; that is her inclination anyway.

I have no doubt Governor Sebelius will continue to show her commitment to public service as Secretary of Health and Human Services, and the American people will benefit from her service. Let us finish the job in confirming President Obama's Cabinet. Let's place a fine public servant in office, and let's confirm Gov. Kathleen Sebelius to be Secretary of HHS.

Mr. President, I wish to yield 5 minutes to the Senator from Virginia, Mr. WARNER, for him to speak when he can get recognition. Pending that recognition, 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. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WARNER. Mr. President, I rise in support of the nomination of Gov. Kathleen Sebelius for Secretary of Health and Human Services. Mr. President, let me say at the outset how grateful all our Senate colleagues are for your leadership on the terribly important issue of health care reform.

As we think about economic recovery, I think most Members of the Senate realize there will not be true comprehensive economic recovery in this country unless we can also take on the massive challenge of reforming our health care system. The current costs of our health care system, $2.4 trillion and rising, are costs that are not sustainable over the long term.

I applaud the President's activities in this effort and his efforts to try to bring about the kind of bipartisan consensus on health care reform the Nation so desperately needs. That is why I think it is so important that later today the Senate act rapidly in the confirmation of Gov. Kathleen Sebelius.

I have had the opportunity to get to know Governor Sebelius during my tenure as Governor of Virginia. I have worked closely with her on a range of issues, particularly issues revolving around Medicaid reform. There is no issue that confronts States across the country more than the rising cost of Medicaid.

As we take on health care reform at the Federal level, reform of Medicaid is a critical component, and Governor Sebelius has a long record of working with other Governors all across the country, from both parties, in this important area.

As the Presiding Officer laid out, she brings a unique set of skills to the challenge: Former State legislator, former State insurance commissioner, and now a two-term Governor of Kansas. As we strive in this body to try to reach bipartisan consensus on this terribly important issue, no one brings a better record of working across the aisle to reach that bipartisan consensus than Governor Sebelius.

Governor Sebelius has a legislature that is overwhelmingly of the opposite party, but her overwhelming reelection and her ability to show tangible efforts in the area of health care reform in Kansas gives her the appropriate background to take on this challenge in the national debate.

For example, Governor Sebelius worked with her legislature and her small business community to significantly increase tax benefits to small business for healthcare; employees in this area of our economy are oftentimes left behind. Governor Sebelius recently worked with her legislature as well on a dramatic expansion of the SCHIP program, a legislative initiative that was actually introduced by the Republican legislative leadership. Again, she worked in concert with the opposite party.

As we move forward on the issue of health care reform, which I know the Presiding Officer will take the leadership on in the Senate, we need, and President Obama needs, someone who has a long-term record of building bridges between parties.

Health care reform is too important not to have this kind of consensus-building activity. Governor Sebelius has the background. Governor Sebelius has the track record in health care. I can speak, personally, that she has the temperament to work to try to bring both sides together.

I would also add, I think most of us in these last few days have not been able to pick up a newspaper or talk to our constituents back home without hearing about growing concern about the possibility of a swine flu pandemic.

This challenge has already paralyzed the country of Mexico and is one that we all are following very closely, particularly the possible rise of cases in the United States. This challenge, potentially confronts our Nation in a very dramatic way.

It is essential for the health of the Nation that President Obama has in place, and the Nation has in place, a strong Secretary of Health and Human Services to make sure our Federal efforts on this potential pandemic are ably coordinated—one more reason why it is critical this body moves quickly to confirm the nomination of Governor Sebelius. I know we will act on this later today.

But I believe, from a personal standpoint, Kathleen Sebelius will be a great addition to President Obama and to his Cabinet and will be a great partner to you, Mr. President, and our colleagues in making sure we bring about health care reform quickly, rapidly, and properly this year.

Mr. President, I yield the floor and ask that the time of the quorum call be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, over the past 8 weeks, there has been a Senator in here who has struggled with the birth of twin granddaughters born at 30 weeks, to a first-time mom, his son's wife, and went through a struggle that was near death multiple times.

But yet today, I am pleased to announce that those two baby girls are at home with their parents, thriving, thriving now, life held in the balance, brought out of that balance by modern medicine. Now they will be successful, contributing citizens, with potential that will be manifested in millions and millions of ways that we can all look forward to and accept as a natural response to our procreative abilities.

Why do I bring that up? There was not anybody in this room, and probably

anybody listening, who did not smile when we talked about the potential of two new young children, two new young girls who are going to make an impact, maybe just locally, maybe just in their family, maybe nationally. But the fact is we have joy when we see that kind of outcome.

The reason I tell that story is because it fits who we are as human beings. It fits with our idea of the pursuit of life, of liberty, and of happiness. That right is guaranteed to us under the Constitution.

Kathleen Sebelius is, undoubtedly, a public servant to be honored for her years of commitment in the roles she has held. But I believe she has a drastic and fatal character flaw and it is this: She still believes that if a woman came with those twins at 30 weeks, to a doctor in Kansas, and she wanted to abort them, even though they are viable, that would be fine.

Now we are about to put someone in charge of Health and Human Services of this Nation who has this vital flaw of not recognizing the value of these two young children's lives. What does it say about where we are going to go? What does it say about the judgment process under which we applaud her service but do not recognize this one critical flaw that says: Individuals can decide what individuals have life.

We do that collectively under the law. But we do not do it collectively and discriminately on the basis of making decisions that someone ought not to have life at the very beginning.

I believe that is a disqualifier. I believe as we embrace more and more people into leadership roles in our Government who walk away from this very basic characteristic of human existence, this very basic necessity that recognizes the value—we are not talking about a first-trimester abortion, we are talking about snuffing life from viable children.

I am also unsettled as to her beliefs under the conscience protection for health care providers. If, in fact, you think it is OK to take a 36-week child in the womb who is an inconvenience for someone and that we, as a society, can't handle that, our choice is to snuff it out, how far does it go before we require the provider community to snuff it out? There were no assurances given in her testimony that that will not happen. We have already seen the Obama administration work to look at reversing the guidelines from the last administration clarifying particularly what the providers' roles are. It says a lot about where we are as a society, about our misplaced values.

The other problem I have—it is one I have never voiced before from this Chamber—is the idea that we as politicians embrace somebody for a position because they are a politician, because they have spent years being a career politician, and that that qualifies them, the Governor of a very small State population-wise, to handle and lead on all these areas of health care. It does not recognize the complexities of the management organization at HHS, the difficulties they have in terms of carrying out their charges. It recognizes past performance in a political arena and equates that as capability in a management arena. If we continue to measure political success and confuse it with the ability to have management success, we will continue repeating the same mistakes in both Republican and Democratic administrations.

My largest worry is not in the short term, it is in the long term. What our country lacks today, what it yearns for today, what it deserves today is courageous, moral leadership, not political leadership. It is OK to have a debate about the controversies society faces. It is not OK for us to run because we are going to get hit by the press because we take a position that is different from that that is politically correct but is based on moral certitude that all life has value. Yet we run from the debate, the true Lincoln-Douglas type debates that held open the soul of America, so we can decide not on the basis of opinion but on the basis of historical fact. The basis of historical fact is this: When societies quit valuing life, societies fail to flourish.

We have a nominee who, for whatever reason, vetoes a bill that says: If you are a doctor, you ought to explain yourself if you are going to take the life of a 26-week infant in utero. You should have to get a second opinion. You ought to demonstrate that you are doing what is in the best interest of the mother and child.

It is hard to demonstrate a best interest for a child when you turn it around in the womb, deliver it two-thirds of the way out, and then destroy it. That is a debate we ought to have. It doesn't just apply to the issue of abortion and unwanted pregnancy; it is a barometer of the soul of the Nation. We offer no excuse that can be recognized as valuable for the betterment of society when we don't have that fundamental debate.

There is a flaw, a critical defect in this nominee. If you are going to be charged with the health and services that relate to health and humans in this society, that you are confused on this issue about transparency and accountability of taking the life of an unborn child is a nonstarter with me, not because I dislike Kathleen Sebelius. She is a wonderful lady. But she lacks part of the moral clarity that is required to lead this Nation in the future and to correct where we are off course on so many issues. Her ability from the start, the first day she is sworn in, will be compromised by her position on this issue. The confidence she will require of the Members of Congress who relate to this foundational principle of liberty as an inalienable right and life as an inalienable right will undermine her from the start.

I have no doubt she will be approved today. I mark it as another signpost on the way to oblivion as a nation when we empower those who don't recognize the value of life in positions that should be guarding that very precept and foundational principle of the Republic. My hope is that the American people, who by 88 percent think this is an atrocious procedure and should never be done, no matter what parameters are put on it, will wake up and say: What are we doing? What are we doing?

For those reasons, and those reasons alone, I will vote against the nomination of Kathleen Sebelius.

I suggest the absence of a quorum and ask unanimous consent that time under the quorum call be divided equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE BUDGET

Mr. BENNETT. Mr. President, we are in the midst of a nomination discussion, and that takes place in the midst of a health care discussion. Last night, the House and Senate conferees struck an agreement on the budget resolution that will clear the way for final votes later this week, but it includes reconciliation instructions for health care and student loan forms which are quite controversial. We are told the reconciliation would not be used until after October 15, and some might find that reassuring. I am not one of those who does because if we are going to deal with the health care problem, we must recognize that it is enormously complex.

Health care spending is projected to be 17.6 percent of our GDP, which is nearly one-fifth of our economy, and a bill dealing with that is going to have to be scored by the CBO before any committee can report it out. At the moment, there is only one bill with respect to health care that has received a CBO score. It is the bill offered by Senator WYDEN and myself, along with 12 cosponsors, known as the Healthy Americans Act. It has been scored by the CBO as revenue-neutral during its first 2 years and then saving money for the Federal Government thereafter. With 12 cosponsors—a mixture of both Republicans and Democrats—it would seem to me that this would be the bill from which we begin our discussions in a truly bipartisan manner, and it would not require the straitjacket of reconciliation to make it possible for the majority to move ahead. We have a score. We have a framework. We have language. It is not perfect. Even some of the cosponsors have indicated that in its present form they might vote against it, but at least it is a place to

begin. It is a place to start the conversation. We do not need the kind of enforcement of majority rights that reconciliation would give us.

To start over again fresh with a proposal from the administration would mean that a bill has to be drafted—something we have already done; the bill would have to be referred to CBO—something we have already done; CBO would have to go through the difficulties of scoring it—an enormous challenge. I don't believe they would be able to get all that done in a timely fashion. Then we would be told on the floor: Well, we have run out of time. We have to deal with health care so we are going to move to reconciliation as the way to jam the thing through in a hurry. Let's understand right here in the beginning that that kind of activity is not required.

Let's turn to Gov. Kathleen Sebelius and her role with respect to the health care debate. My normal pattern has always been to say that the President has the right to whomever he wants, and I have not voted against Presidential nominees unless I felt they were completely inappropriate or incapable of carrying out their duties.

I have respect for Governor Sebelius. I think she is a valuable and potentially productive appointment for the President, but I have reluctantly come to the conclusion that she is the wrong appointee for this particular assignment. She has backed a partisan process for health care reform. She refuses to support patient safeguards and comparative effectiveness research, and, perhaps most strongly for me, she has already endorsed a Government-run public health care plan, something I would have to vote against. I think most of my colleagues—if not all of my colleagues on the Republican side—would vote against it, not for partisan reasons but for the flat fact that it doesn't work. We have seen examples of that throughout the world, and we understand it doesn't work.

I have constituents who have relatives and friends in Canada who come to me and say: Based on our experience with our relatives and friends in Canada, we absolutely do not want a Canadian system. This is just an anecdote, but it is illustrative of the kind of thing that goes on in the Canadian system where they ration care by delay. They don't ration it by regulation, they simply ration it by delaying the ability of people to get access. As has been reported to me, if you can demonstrate as you go into the Canadian system that there is some problem related to heart disease, you get moved to the head of the line. So some of my constituents have told me that their relatives in Canada have discovered that if they go to see a doctor with a cold or with the flu or with some other problem, they always say, ''And this threatens my potential for heart disease'' in an effort to get ahead of the line and move forward in the Canadian system that would otherwise delay their access to a doctor. If you haven't learned that trick, you wait for 3 months, 6 months, whatever. This is the kind of Government-run public health plan Governor Sebelius has indicated that she would support.

There is also the troubling problem that she failed to disclose relevant information to the Finance Committee with respect to her taxes. We have had that happen with other Cabinet nominations, and it has become something of a cause celebre with many Americans who are following this. It has become the butt of jokes on the late-night talk shows. It is unfortunate that she has fallen a victim to that as well.

She has also been less than forthcoming with respect to her relationships with some of her political donors. She had a political relationship with a doctor who was involved in partial-birth abortions and was obviously anxious to see to it that he had access to public officials who would support him in that. That is an issue which carries a great deal of influence with my constituents, and it is another one that troubles me.

So while I think Governor Sebelius might be well qualified for some other position, I do not intend to support her for this position. As we deal with health care problems, the Secretary of Health and Human Services is a key player in helping us solve this problem, and I believe she carries a little bit too much baggage for this particular assignment.

So once again we have the framework for a bipartisan solution. It can be the beginning point of the discussion. A bill has been written around it, and it has been scored by the CBO. Why don't we start with that instead of threatening reconciliation for a whole new program that might start with the administration?

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand the Senator from New York wishes to be recognized for 5 minutes, so I ask unanimous consent that I be recognized for 10 minutes following the Senator from New York.

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

The Senator from New York.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes and that Senator GREGG be recognized following my remarks.

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

SOJOURNER TRUTH

Mrs. GILLIBRAND. Mr. President, today is a very special day for me. As a woman and a New Yorker, it thrills me that today we are honoring one of the earliest and greatest figures in the history of women's rights and civil rights: Sojourner Truth. We are placing a statue of Sojourner Truth in Statuary Hall today—the first African-American woman to have a statue in the Capitol. She will be the 12th woman depicted in works of sculpture among the 92 sculptures of our male leaders. From this day forward, Sojourner Truth's groundbreaking work advancing the basic rights of women will be given its due prominence beside so many other great Americans in the seat of our democracy.

Sojourner Truth was born Isabella Baumfree as a slave in 1797 who never learned to read or write, yet became an all-important messenger for truth and equality. Although beaten and branded, she responded with dignity and faith rather than hatred and violence. Her views were shaped not only by her personal hardships—enslavement, daily beatings, grueling work, and seeing her 13 children kidnapped and sold away—but also from an innate understanding that equality is an inalienable American right and should not be ascribed based on gender or color.

Once freed from bondage in 1817, she changed her name to Sojourner Truth, telling her friends that the spirit had called her to speak the truth for justice. She then traveled our Nation speaking honest words about the shortcomings of the American dream—the stain that slavery and injustice imposed on America's life and laws and noting for all to see where the reality failed to reflect the noble tenets of our Founding Fathers. She dedicated her life, indeed, she risked her freedom, to oppose the trappings of injustice and prejudice.

Despite being born into slavery, stripped of any legal standing, protection, or property, and denied any access to education, Sojourner Truth understood that freedom and equality are fundamental rights. Embracing our greatest traditions and arguing with simple passion that neither gender nor color could overpower justice, she demonstrated a courage and a conviction that compels us to act today, almost 125 years after her death.

Sojourner Truth raised her voice without a chorus of women behind her. Most abolitionists questioned her determination to link women's rights with the abolition of slavery. She rejected their concerns, asking them the direct question they couldn't avoid: ''And ain't I a woman?'' With those few words, she refused to parse justice. With those few words, she forced audiences past and present to recognize that human dignity and respect are part and parcel of who we are as Americans—male or female, African-American or Caucasian, educated or not. Sojourner Truth represents the courage that the American ideal imparts and calls all of us to action.

As we honor this bold, daring New Yorker today, I am also proud that New York has time and time again helped to foster those who have chosen to carry on her fight. Today, I can think of at least two others committed

to justice who, though from very different backgrounds, continually risk themselves for justice and human rights.

The battles fought by Sojourner Truth were not left only as lessons of history, but they stood as a beacon of hope for the next generation to carry the torch one mile further. One of the next in our history to carry on the cause for equal justice was Eleanor Roosevelt.

Eleanor Roosevelt could have been content with a life defined by privilege and limited education. But like Sojourner Truth, she travelled the nation and indeed the world to fight for equality and human rights. Like Sojourner Truth, Eleanor Roosevelt raised her voice to attack segregation and gender bias. Like Sojourner Truth, she risked her life to practice what she preached and to hold us accountable when we wanted to turn our back on justice and American ideals. Like Sojourner Truth, Eleanor Roosevelt told us that we ''must hazard all we have'' to make the American dream real. She told us that employment, housing, education, health care policies that favored the privileged undermined us all, that women had a critical role and responsibility, and encouraged women to run for office, to organize, to get out the vote, and to reach across party, gender, and racial lines to get the work done.

Eleanor Roosevelt took this same determination with her to the United Nations where, like Sojourner Truth, she used strength and grace to advance the recognition of equal rights. Embracing her responsibility as the only woman on the American delegation and one of the few women delegates to the General Assembly, she played an instrumental role in drafting the Universal Declaration of Human Rights in 1948, especially the concept as stated in article 1, that ''all human beings are born free and equal.''

Just as Sojourner Truth had done in a century before and Eleanor Roosevelt had done decades earlier, the cause was enlisted by another great woman. Recognizing that equality had not yet been achieved, Hillary Clinton stood and fought for the rights of women. As first lady, Hillary Clinton understood the political costs of speaking out forthrightly for women's rights and human rights. Yet like Sojourner Truth and Eleanor Roosevelt before her, she would not ignore the rights and needs of women despite the possible diplomatic repercussions.

She travelled to China in 1995 and stood before the world to oppose injustice and to proclaim that ''once and for all, women's rights are human rights and human rights are women's rights.''

How Sojourner Truth must have relished that moment. From Akron, OH, Beijing, China—from newspapers to the Internet and C-SPAN—their message spanned the globe.

Hillary Clinton played an instrumental role in the dedication we celebrate today. Hillary Clinton and SHEILA JACKSON-LEE were inspired by the efforts of Dr. C. Delores Tucker, former chair of the National Congress of Black Women, to formally recognize Sojourner Truth in the U.S. Capitol. They felt that the unfinished portion of the monument to suffragists was surely intended to hold the image of Sojourner Truth. After long consideration, it was determined to carve a unique place for Sojourner Truth—appropriately so as the first statue in Emancipation Hall.

And now it stands erect in the Capitol Visitors Center for all to see. As the Senator from their home state, I am so grateful to be here today to honor Sojourner Truth. Her courage and her vision are timeless and bold and brave—Her statue will be a constant reminder that our rights must never be take for granted and that with these rights come the responsibility to enforce them.

To honor Sojourner Truth and all women before us, we continue that struggle as there is still much to do. Today the fight is for equal pay and recognition in the workplace. Even in 2009, for every dollar a man earns, a woman makes just 78 cents. And the disparity is even worse for women of color, with Latino women earning only 53 cents and African-American women earning 62 cents on the dollar. Working women and their families stand to lose $250,000 over the course of their career because of pay inequity. It is unacceptable, and it needs to change. The Paycheck Fairness Act introduced by then-Senator Hillary Clinton and Rep. ROSA DELAURO is an important step towards that goal. I proudly join in helping carry Secretary Clinton's work towards equality here in the Senate.

These steps towards equality for all are our duty. As Eleanor Roosevelt often said, ''we are all on trial to show what democracy means.'' We have made such important strides, but we still have a long way to go.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from New Hampshire is recognized.

THE BUDGET

Mr. GREGG. Mr. President, I rise to speak about the soon to be pending issue of the budget. We are told that the Democratic membership of the House and Senate reached agreement last night on the budget proposal. They didn't seek our advice or counsel on it. It is pretty much the outline of the budget as requested by the President.

There has been a lot of discussion about whether the President inherited a terrible situation. I think he did, from a fiscal standpoint. He has had difficult issues to confront relative to stabilizing our financial industry and trying to get the economy going and addressing the issues which most Americans are concerned about, which is their jobs, the value of their homes, the ability to pay their bills, and to send their kids to college.

What the President inherited is important, but what he is bequeathing to the next generation is even more important. This budget he proposed is an outline of where he sees the Government going and where he sees this Nation going.

Regrettably, the budget as proposed by the President, which has been worked on here by the Senate Democrats and the House Democrats, puts forward a picture that basically almost guarantees our children will be inheriting a nation with a government that is nonsustainable. The President's budget proposed a trillion dollars of deficit, on average, for the next 10 years. That is a number that is hard to comprehend. But to try to put it into perspective, the effect of that number is that the debt of the United States will double in 5 years and triple in 10 years. If you want to put it in another perspective, take all the debt created since the founding of our Nation, from George Washington through George W. Bush—all that debt that has been added to the backs of the Nation's people—and President Obama's budget doubles that debt in 4 years, which is a staggering event.

The implications are pretty dramatic for the next generation. The public debt of the United States will go to 80 percent of GDP fairly quickly under this proposal. The historic public debt of this country has been 40 percent of GDP. That means the amount of debt out there in relation to the size of the economy will have doubled.

That has dramatic ramifications. For example, at that level of public debt through the economic activity in our country, we as a nation would not be allowed to enter the European Union because we wouldn't meet their standard for fiscal responsibility. Countries such as Latvia, Lithuania, and Ukraine, which all have very serious issues, might qualify for the European Union, but we would not because of the fact that our debt was so high as a percentage of our economy. It means our people, who have to pay that debt, will have to pay an inordinate amount of taxes in one of two ways to pay that debt off. Either they will have to pay more taxes because the Federal Government will inflate the money supply in order to pay off this debt, which is the worst tax there is—inflation—because it takes away the savings of all of the American people or you will have to significantly increase taxes on every American, not just the high-income Americans, as was represented by this President that he wants to do, and the Democratic Congress and Senate said they want to do; all taxes will have to go up astronomically in order to pay for the debt.

What is driving this massive expansion of debt our children and we are going to have to pay as a result of this budget that is proposed by the President? Well, it is spending. Very simply, it is spending. The President proposed, and the Democratic Congress will bring forward, a budget that significantly increases the spending of the Federal Government. Historically, the spending

of the Government has been about 20 percent of the GDP. Under this budget, it goes to 22 percent, 23 percent, 24 percent, 25 percent—it gets up to levels that have never been seen, except during the time of World War II. They are unsustainable levels of spending. It is being done with a pure purpose, which is, I guess, to Europeanize the American economy and the American Government, to basically have the Government become the largest and most significant player in our economy and to dominate all aspects of our economy because of its size.

The President is very forthright about this. He says he believes that by growing the Government significantly, he can create more prosperity. Those on our side of the aisle disagree with that. We believe a government has to be affordable for a nation to have prosperity. We also think prosperity doesn't come from the Government, it comes from individuals who are willing to take risks and go out and create jobs by taking those risks. This is a fundamental disagreement. This budget lays that out precisely.

We are going to hear from the other side of the aisle the most disingenuous discussions about how they have been much more responsible on the budget, while they claim they are doing exactly what the President is doing in his budget. The reason they make that statement is because they cook the books. At least the President was forthright and he came forward with a budget—except in the area of defense—which set forth in a reasonably honest way what the costs to the Government were going to be and, as a result, it reflected the fact that because of his huge commitment in new spending programs, the cost of Government was going to be extraordinary, and the amount of debt that was going to be added to the books of the Government and the backs of the American people was going to be untenable and unsustainable.

The other side of the aisle, I guess because they recognize they are going to be up for election before the President, doesn't want to have those numbers out there. So they have gone back and played a lot of games with the numbers the President sent up. For example, the President honestly represented the fact that we are not going to get revenues from the alternative minimum tax, because every year we basically limit the amount of applicability of the AMT. But the baseline reflects a huge income of the AMT. It says 20 million people are going to pay it. But we are not going to allow that to happen, because it wasn't designed to affect 20 million people but the top income producers in this country—probably less than a million people. So every year we basically change the law so that for that year the AMT doesn't apply. The President was forthright and said I know that will happen and I am not going to account for this revenue that never comes in. So he scored the AMT fairly. The other side of the aisle games that number.

In the area of the doctors' fix, every year we know we are going to have to pay doctors a reasonable amount for their services under Medicare. Unfortunately, we have a law in place that keeps cutting that amount. This year it will be cut almost 20 percent over the baseline, in an arbitrary and foolish way. We should fix this permanently, but we don't have the courage to do it because of the effects on the budget. So we have used all sorts of gimmicks over the years—and everybody admits to this—so that we didn't have to fix that over a long period of time and correct that problem, even though we know every year we are going to adjust and make that payment to doctors.

Well, the President was forthright and he said, listen, that is not fair, honest accounting. We are going to tell you exactly what the doctors' fix costs, and we are going to account for it in the budget.

What does the other side of the aisle do? They hide that number again. They go back to the old rules. Those two items alone represent $100 billion of annual spending, which is being put under the rug. The President was honest enough to talk about it, but this Democratic Congress and Senate, in an attempt to obfuscate the issue for the American people, because they don't want to tell the people how much money they are spending, they stick that $100 billion under the rug.

Then there is the health care reform. At least the President—even though I disagree with some of his philosophies, and I hope we can have a bipartisan approach, and I support the Wyden-Bennett bill floating around this Congress—at least the President, in proposing his health care reform, said he was going to account for paying for half of it—$600 billion he put into the budget to pay for his health care reform. He acknowledges that is about half the cost of a $1.2 trillion program over the time of his budget.

What does the other side of the aisle do when they bring this budget forward? They don't account for any of it—none of it. It disappears off the books. Not only is the $1.2 trillion not there, the $600 billion is not there. How outrageous, to claim they are going to bring the deficit down to 3 percent of GDP in 2014, when they have basically hidden under the rug the AMT cost, the doctors' fix cost, and the most significant fiscal issue, health care reform. It is so disingenuous, it is almost unbelievable. But they are going to do that, and I suspect it won't be covered in any depth. To claim they are going to cut the deficit in half, which is a classic example of language over substance, will be the mantra of the day. They say they are going to cut the deficit in half. They claim they are going to cut it by 75 percent, because they are going to take a $1.8 trillion deficit and allegedly cut it to $550 billion in 4 years.

Let me point out to you that $550 billion is too big. It is like saying we are going to take six steps backward and two steps forward and claim we are moving in the right direction. Of course they are not. Equally important, the $500 billion number is a total fraud. It is a fraud on the American people brought forward in this budget.

Please, please, please do not subject the American people to this sort of disingenuousness. At least have the integrity the President had when he presented the budget of accounting for what we know are real numbers, such as AMT, the doctors fix, and the health care reform initiative proposed by the President and supported by the other side of the aisle.

That is the substantive problem with this budget; that it creates all this debt, all this spending. It takes the Government of the United States and lurches it to the left. It Europeanizes our Nation, for all intents and purposes, and passes on to our kids a government that is not sustainable.

It is ironic that we hear from the Budget chairmen, both in the Senate and the House, that the outyear numbers are unsustainable under this budget. The outyears are so unsustainable under their budget that they eliminated the last 5 years of the budget. The President sent up a 10-year budget to have some integrity around here. The other side of the aisle said: My goodness, we can't tell the American people what is going to happen to them over the second 5 years. It is bad enough what we are going to do to them in the first 5 years. We are going to eliminate the second 5 years and do a 5-year budget and not tell them about the second 5 years.

Both Democratic chairmen of both committees in the House and Senate have said we are on an unsustainable path. What do they do about the unsustainable path? They hide the numbers under the table, they do not admit to the spending, they allow the spending to go up radically, and there is absolutely zero—zero—savings on the spending side of the ledger, especially in the entitlement accounts which is at the core of what is driving the outyear problem.

Ironically, a couple of the ideas the President sent up to save money were dropped, simply dropped. For example, he proposed some savings in the agriculture accounts which were very reasonable. They disappeared. He proposed some savings in the Medicare accounts which were very reasonable. They disappeared. But that is a minor story compared to the trillions of dollars of new debt that is going to be put on the backs of our children.

By the time this budget has run its course, it will have added well over $9 trillion, under the President's calculations, to the debt of the United States. Who is going to pay that? Who is going to pay that? First off, who is going to lend us the money? At some point, the countries that are lending us this

money, the international community that looks to us and lends us money so we can run these massive deficits, is going to say: Why? Hold it. We don't know if they can pay off all this debt. At that point, the value of the dollar is at risk. At that point, the ability of us to sell debt is at risk. At that point, our Nation starts a downward fiscal spiral which will be extraordinarily disruptive and dangerous for us as a nation. This is not a good path to be on.

There are also a couple technical points that should be pointed out because they are procedural points that have massive policy implications. First, of course, is this really pyrrhic claim they are using pay-go as a disciplining mechanism. How many times have we heard that pay-go is going to be used to discipline spending. My goodness, in the last Congress, which was dominated by the Democratic Party, if I recall correctly, the House and Senate both being democratically led, pay-go, which was supposed to discipline the fiscal process around here, was waived almost 20 times—either waived, avoided or circumvented almost 20 times. Those exercises cost us almost $400 billion in spending that should have been offset. So pay-go became ''Swiss cheese-go.'' It had no value and was a worthless purpose, other than to make a political speech and claim on the stump: Oh, I am for fiscal discipline. I am for pay-go. Of course, when you voted in the Senate over the last 2 years, if you made that speech and up for reelection and you were a Democrat, you basically waived pay-go, circumvented pay-go or avoided pay-go to the tune of $400 billion in new spending.

Now we have the House Blue Dogs saying: We are going to get tough pay-go language back in place. I have to explain something to the House Blue Dogs: They didn't get it. They didn't give it to you. The budget that is going to come to the floor of this Senate is going to have structural changes which allow pay-go to be avoided for up to $2.5 trillion, at least that is what the House budget had in it, and the Senate budget was pretty close. Mr. President, $2.5 trillion will circumvent pay-go.

The most egregious exercise will be in the health care area, where they have formally ended pay-go's applicability during the first 5-year window. They basically say openly: We are not going to comply with pay-go on health care.

Health care is going to be the single biggest fiscal event this Congress has probably taken up in the last 20 years, maybe 30 years, maybe 40 years, maybe ever. Restructuring the health care of this country is a pretty doggone big exercise since it represents 17 percent of our economy. To say they are not going to apply pay-go to that exercise, to that effort, to that undertaking is to drive a hole through the pay-go concept that is so big it becomes not ''Swiss cheese-go'' but a great big, huge onion ring; there is basically nothing left but air in pay-go.

When the Blue Dogs on the other side of the aisle start marching around: We have pay-go, we have pay-go, somebody ought to point out to them that their banner does not have a flag on it. Pay-go was taken down under health care rules and under the rest of this bill. It may make for a good press release, but it sure as heck doesn't have any substance to it.

The second procedural event, of course, is this issue of reconciliation, which is a major issue for us on our side of the aisle, and it should be for the Senate. When the Senate was constructed, when our constitutional form of Government was put together, the idea was to have balance so we had a House of Representatives where things might happen quickly, but when it got to the Senate, there would be an airing, a hearing, consideration, and there would be due diligence on issues. That is why it was George Washington who described the House as the cup with the hot coffee in it and the Senate as the saucer into which the hot coffee is poured so it can be cooled down a little bit.

The Senate is institutionally and constitutionally structured to be the place where we have debate, we have discussion, and we have amendments. That is the whole concept behind the Senate, especially on issues of massive public policy implications, and there is probably nothing we are going to take up on the domestic side of the ledger that has a bigger public policy implication than the rewriting of our entire health care system.

Yet what is being proposed is that this rewrite of the entire health care system be done in a way that allows the Senate only 20 hours of debate, with essentially no amendments and with an up-or-down vote, yes or no, on something that affects 17 percent of the gross national product of this country, that affects every American in every walk of life in a very significant way, and that is how is their health care system delivered.

Why wouldn't we want to have a full and clear, hopefully, and significant discussion of what we are doing to the American public and what the policy implications of health care reform are on the floor of the Senate? If we are going to get a good piece of legislation, we are going to have to have bipartisanship and going to have to have the American people believe it is fair. You cannot pass something as significant as health care and do it in a crammed-down manner, in a manner where it is totally partisan. Yet reconciliation is structured to accomplish just that.

You have to have every stakeholder at the table. Granted, we are not going to win all our points, but we may have some points that are constructive to the debate. Let us at least be at the table and make those points on the floor of the Senate through the amendment process. Don't shut this Senate down and don't make us into the House of Representatives and don't essentially convert our constitutional form of Government, which is checks and balances, into a parliamentary form of Government, where there are essentially no checks and balances on the majority once it has an overwhelming position. That is what is being proposed in the bill when it pushes reconciliation as an option for the majority party in the area of health care reform. It is unfortunate.

I appreciate the courtesy of the Chair.

I ask unanimous consent that all quorum calls during debate on the Sebelius nomination be equally charged to both sides.

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

Mr. GREGG. 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.

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

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

The Senator from Oregon is recognized.

Mr. MERKLEY. I thank the Chair.

(The remarks of Mr. MERKLEY pertaining to the introduction of S. 911 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BUNNING. 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. BUNNING. Mr. President, what is the order of business? Are we in morning business?

The PRESIDING OFFICER. The Senate is considering the Sebelius nomination.

Mr. BUNNING. Mr. President, I have a statement that will take about 15 minutes on Governor Sebelius.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BUNNING. Mr. President, I want to say a few words about the nomination of Governor Kathleen Sebelius to serve as our next Secretary of the Department of Health and Human Services. I will not be able to support Governor Sebelius's nomination to this position and will be voting no. I wish to take a few minutes to explain my opposition to her confirmation.

First, I have always been pro life. I believe that life begins at conception and that every life is precious. I believe that we, as a society, have a responsibility to protect those who cannot protect themselves and speak for those who cannot speak for themselves. That

is why I am so strongly opposed to abortion. Abortion kills the most fragile, most vulnerable, and most needy among us. These children cannot defend themselves, so they desperately need us to protect them.

To me, abortion is about whether defenseless babies have a right to live. The answer, clearly, is, yes, they do. I don't understand how people can come away with any other conclusion than that one. Unfortunately, too many people do. According to the National Right to Life, there have been more than 49 million abortions in the United States since 1973, with about 1.2 million in 2005, the year they have the most recent data. These numbers are staggering and saddening.

I cannot support the nomination of someone to be the leader of our Health and Human Services Department who does not respect human life. That is why I will be voting against Governor Sebelius. Her record as Governor of Kansas on abortion issues is dismal. She has vetoed multiple pieces of legislation passed by the Kansas legislature dealing with abortion, including bills in 2003, 2005, 2006, and 2008. In fact, last week she vetoed yet another bill.

These were commonsense bills that I think most Americans could agree with, such as creating standards for abortion clinics that require clean and sterilized rooms and equipment, counseling before and after abortion, and medical screening for patients. Several of the bills dealt with changes to the Kansas late-term abortion laws, including one vetoed last week. That bill required certain information to be reported to the State when doctors perform late-term abortions, including the specific medical reason the abortion was performed. Another bill would have given women about to undergo an abortion the opportunity to listen to the baby's heartbeat and see an ultrasound of their child, along with several other provisions. Governor Sebelius vetoed all of these bills.

I am also greatly concerned about Governor Sebelius's relationship with Dr. George Tiller, an abortion doctor from Wichita, who specializes in late-term abortion. On Dr. Tiller's Web site he says that his clinic has ''more experience in late-term abortion services over 24 weeks than anyone else practicing in the Western Hemisphere, Europe, or Australia.'' This is not something to be proud of.

I know that pro-abortion supporters like to make the argument that unborn babies are a clump of cells and not yet a human being. They couldn't be more wrong. These unborn babies are developing, growing, can feel pain, and certainly have the will to live. Let me briefly give a description of the development milestones that babies reach as they grow to 24 weeks. This is according to the Mayo Clinic's Web site—the Mayo Clinic: At 5 weeks, the heart begins to beat. At 8 weeks, eyelids are forming, along with the ears, upper nose, fingers, lips, and toes. At 9 weeks, the baby begins to move. At 12 weeks, fingernails and toenails are forming. At 16 weeks, the baby's eyes are sensitive to light. At 18 weeks, the ears start working and the baby can be even startled by loud noises. At 19 weeks, the kidneys are working. At 20 weeks, most mothers can feel their babies move. At 22 weeks, taste buds are forming. At 23 weeks, the baby begins to practice breathing so she will be ready once she is born. At 24 weeks, the baby weighs about a pound and a half, has footprints, and fingerprints, and starts to have regular waking and sleep cycles.

The Web site says that babies formed at 24 weeks have a 50 percent chance of survival. And this is where Dr. Tiller steps in and aborts the baby. How can you hear these development milestones and believe these babies are expendable; that these babies' lives are less important than someone else or that they simply can be killed and thrown away?

Think of the difference between two babies at 24 weeks—one is wanted, one is not. For the child born early, whose parents love and want her, she would be rushed to a neonatal intensive care unit after delivery, where she would be given round-the-clock intensive medical care until she was big and strong enough to go home. Every day in this country, premature babies cling to life and fight for survival. I think most of the parents of premature babies would tell you that their child's will to live is courageous and inspiring.

For the poor babies who have parents who choose to abort them, their life is about to end. According to Planned Parenthood, a procedure called dilation and evacuation—or D and E—is generally performed in pregnancies over 16 weeks. Let me read how the National Right to Life organization describes this procedure:

> Forceps with sharp metal jaws are used to grasp parts of the developing baby, which are then twisted and torn away. This continues until the entire baby is removed from the womb. Because the baby's skull has often hardened to bone by this time, the skull must sometimes be compressed or crushed to facilitate removal.

That is disgusting, and anyone who tries to justify it should be ashamed. Abortion and the callous disregard for human life in this country is a real tragedy. George Tiller's work greatly concerns me. Governor Sebelius's ties to George Tiller greatly concern me. The late-term abortion doctor has donated tens of thousands of dollars to Governor Sebelius, and she has even honored him at the Governor's mansion in Kansas.

Governor Sebelius hasn't always been upfront about their relationship as well. In answering questions before the Finance Committee, Governor Sebelius originally said that Tiller had donated about $12,000 to her. A few days later, she had to go back to revise that amount because somewhere an additional $23,000 in donations from the abortion doctor had been overlooked and not accounted for. While she said this was an inadvertent omission, it seems to me that you would remember that sum of money from one of your most controversial donors.

I certainly realize that President Obama would not nominate someone to be Secretary of the Department of Health and Human Services who is pro life. However, Governor Sebelius's record on right-to-life issues along with her ties to the late-term abortion Dr. Tiller cannot be overlooked. The leader of the Department of Health and Human Services should be balanced and reasonable. There is nothing in Governor Sebelius's record that makes me think she is either when it comes to protecting the life of the unborn.

The second major reason I am opposing this nomination is that I don't believe Governor Sebelius has the experience to be Secretary of the Department of Health and Human Services. HHS is an enormous bureaucracy, responsible for everything from the Medicare Program to the National Institutes of Health, to the Food and Drug Administration. The Department has 11 operating divisions, over 64,000 employees, and a budget of $707 billion. According to HHS's Web site, it allocates more grant dollars than all of the other agencies combined. This is a tremendous responsibility, and the Department needs someone with hands-on experience.

As Governor of Kansas, she appointed someone to run their health and human services department and was not directly responsible for the day-to-day operation. As Congress considers major health care reform legislation this year, we need someone with extensive experience in setting health policy for the entire country.

I fundamentally disagree with Governor Sebelius on life issues, and I do not believe she has the experience to lead such a large department. I will be voting no on her nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise in support of the nomination of Gov. Kathleen Sebelius to be Secretary of HHS. I do so enthusiastically. I do so as a personal friend of Kathleen's. I do so as a fellow public servant who has observed her considerable public service to her State of Kansas and to the people of this country.

A dozen years ago—a little more; it was actually about 14 years ago—she was elected, unusually, as a Democrat in Republican Kansas, to a statewide office known as insurance commissioner. It is a little-known and thankless job but one that has traditionally been under the thumb of the insurance industry. She came out of the Kansas Legislature, so she had a good schooling in the art of political craft. Indeed, that started long before she ever entered the Kansas Legislature because her dad was the Governor of Ohio. So it

is in her genes. Her father-in-law was the longtime Republican Congressman from Kansas. In that very Republican State, they elected a Democrat as the insurance commissioner. It was not a close election, but it was one in which, once she was installed as insurance commissioner, she started showing people who was boss. The elected representative of the people of Kansas was going to administer the laws with regard to the protection of consumers, which is the purpose of having an insurance advocate for the people.

Only a few States continue to elect their insurance commissioner. It is known as the office of the revolving door since most of the insurance commissioners are appointed. The revolving door starts with the insurance industry having a representative who is appointed by the appointing authority, usually the Governor, because someone who is knowledgable about insurance has to be insurance commissioner. But, indeed, the door continues to revolve, and the average time of service for an appointed insurance commissioner is less than 1 year. As a result, as you watch the door revolve, they come in from the insurance industry, become the top regulator of the insurance industry, and on the average, in less than a year, the door revolves and they are out the door and they are back in the very industry from whence they came. That is not the smartest way to have an insurance regulator.

Kathleen Sebelius defied that model. As the elected insurance commissioner of Kansas, she stood up for consumer rights and she cracked the whip to get the insurance companies to offer this product that has now become a necessity, not a luxury. Why? You can't drive a car without insurance. You can't own a home, if you have a mortgage, without insurance. You better have some life insurance if you are planning for your family.

By the way, we have not even talked about health insurance. A huge percentage, well over a majority of the people in this country, get their health insurance through their employer. As we approach the issue of health care reform, what to do about insurance is going to be front and center, and Governor Sebelius is uniquely qualified to address this issue. We have 47 million people in this country who do not have health insurance, but they get health care. Where do they get health care? They get it from the most expensive place, which is the emergency room, and they get it at the most expensive time, which is when their symptoms have turned into a full, raging emergency. Therefore, because they did not have health insurance, they were not seeing a doctor for preventive care, and all of this additional cost, plus the additional costs of being treated in an emergency room—guess who pays. All of us pick up that tab. That, additionally, is plowed back into the costs we pay for health care, in large part through the insurance premiums we pay.

Governor Sebelius is someone who has been there, she has done that. She knows how this insurance system operates. She knows the parameters in which you have to offer health insurance to people in order to make it work. She understands the financing behind it. She is uniquely qualified for this position of Secretary of HHS.

Since I have the privilege of being a personal friend, I have known her over these 14 years in our capacities as elected insurance commissioners, she from Kansas and me from Florida, and then as I have continued to see her in her public service, then having gone from insurance commissioner to Governor, she comes at a time when this Nation is begging for health care reform. The President has chosen Kathleen in this exceptionally important position to not only use her skills as a former regulator where she can crack the whip but to use her skills as a person who can bring people together, who can reconcile, who can build consensus—which she has honed over the years and I suspect honed those skills at the knee of her father as she was growing up. She honed those skills as a public servant—as a legislator, as an elected statewide official, as the Governor, and now she will be the right person at the right time whom this Nation needs—a very good Secretary of Health and Human Services.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

The PRESIDING OFFICER. The Senate will resume consideration of S. 386, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

Mr. DURBIN. Mr. President, we have on the Senate floor a piece of legislation that has broad bipartisan support and that addresses an urgent national need.

Our country has seen a wave of white-collar fraud that has undermined the financial and housing markets and shaken our entire economy.

In recent years, there simply haven't been enough cops on the beat in the mortgage and financial markets. After 9/11, the Department of Justice, the FBI, and other agencies shifted their attention away from financial fraud investigations to focus on other important concerns. At the same time, we saw financial deregulation, the boom in subprime and exotic mortgages, and the evolution of mortgage-backed securitized instruments. These developments created a wealth of opportunities for fraudsters to rip off hard-working Americans.

We know now that there is a wave of fraud sweeping the country. The Treasury Department is receiving 5,000 mortgage fraud allegations per month. The FBI now has more than 530 open corporate fraud investigations, and FBI officials report that their fraud caseload is growing exponentially. And Americans have been stunned by recent revelations of massive Ponzi schemes and the manipulation of financial markets. It is simply unacceptable for this Congress to stand idly by and watch these fraudsters rip off the American people. We need to act. And we have a bill on the floor of the Senate right now that would take strong and effective steps to catch the perpetrators of these frauds and protect the taxpayers.

The Fraud Enforcement and Recovery Act, sponsored by the chairman of the Judiciary Committee, Senator LEAHY, and the ranking member of the Finance Committee, Senator GRASSLEY, is carefully crafted and widely supported on both sides of the aisle.

The bill makes important improvements to the criminal fraud statutes. These provisions will strengthen prosecutors' ability to combat fraud in the mortgage and financial markets. The bill also puts more cops on the beat in the financial markets. It authorizes the hiring of hundreds of FBI and SEC investigators to focus on mortgage and financial fraud. It provides $100 million for new white-collar prosecutors in U.S. attorney offices, and it bolsters the resources of the Criminal, Civil and Tax Divisions of the Department of Justice.

These investments in enforcement are likely to pay off in more ways than just catching criminals. They will lead to increased restitution payments, criminal and civil fines, and monetary recoveries for victims and taxpayers. The Justice Department estimates that for every dollar spent to prosecute fraud at the Criminal Division, more than $20 is ordered in restitution and fines for victims and the government. So this bill will pay for itself and then some.

The legislation also includes a key provision from a bill that Senator GRASSLEY and I introduced earlier this year to update the Federal False Claims Act. The False Claims Act is known as Lincoln's Law. It was signed by President Lincoln in 1863, and since then it has enabled the Federal Government and whistleblowers to work together to prevent waste, fraud, and abuse of Government funds. The False

Claims Act has been a powerful anti-fraud tool. Since 1986, the Federal Government and whistleblowers have recovered over $22 billion in monies that were fraudulently taken from Government programs. The bill before us corrects several court decisions that have misinterpreted the False Claims Act and limited its scope. This legislation will help keep Lincoln's Law strong for the 21st century.

I am proud to cosponsor the anti-fraud legislation we are considering. It is going to pass this body by a wide margin, and it is going to help the American people. But it has been held up by a small number of Senators from across the aisle. These Senators have delayed a vote on final passage of this bill, because they want to offer amendments that have nothing to do with the bill. Why are these Senators standing in the way of legislation that will fight fraud in our markets and curb waste in Government programs? I can't understand it, and I don't think the American people can understand it.

These Senators should be cosponsoring this legislation, not blocking it. Are these Senators aware of the mortgage rescue scams that are catching more and more Americans every day? Do they know that con artists are out there right now promising that they can help families who are facing foreclosure save their homes—all for a supposedly small upfront fee? Desperate homeowners are tricked into paying these con artists, who then skip town and leave the family worse off than before. Are these Senators aware of the financial scams being perpetrated on senior citizens and military families? What about the investors who have lost their life savings to Ponzi schemes and market manipulators? Shouldn't we put more cops on the beat to catch these crooks? Shouldn't we bolster our enforcement agencies so they can prosecute these cases and get restitution for the victims? I think we should.

The Fraud Enforcement and Recovery Act takes important steps to help law enforcement agencies investigate and prosecute the financial fraud that has surged in recent years. It will also deter those who might commit fraud in the future. This measure will help restore confidence in our economy and restore millions of dollars in ill-gotten gains to victims and taxpayers.

I hope we can vote quickly on final passage of this bill. America needs it, and we need to pass it.

Mr. LEAHY. Mr. President, today we finally come to a vote on final passage of the bipartisan Fraud Enforcement and Recovery Act of 2009, S. 386. It has taken longer to arrive at this point than it should have, and we have had to consider too many extraneous issues that would have been better suited for another debate. We nonetheless stand ready to make real progress. This bill is a step toward holding accountable those who have caused so much damage to our economy. It should help protect our economic recovery efforts from the scourge of fraud.

Our bill will strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have so severely undermined our economy and hurt so many hard-working people in this country. These frauds have robbed people of their savings, their retirement accounts, their college funds for their children, their equity, and costs too many their homes. These are serious matters that should not be delayed. The bill will help provide the resources and legal tools needed to police and deter fraud and to protect taxpayer-funded economic recovery efforts now being implemented.

I end as I began by commending Senator GRASSLEY, our lead cosponsor, for his leadership in helping to write this legislation and to manage it on the floor. He has once again proven his dedication to protecting taxpayer funds by deterring, investigating, and prosecuting fraud.

I thank our many cosponsors for their steadfast support for this effort. Senators KAUFMAN and KLOBUCHAR have worked particularly hard to ensure that this important fraud enforcement bill becomes law, and I thank them for their efforts. Senator KAUFMAN has spoken and written about the need for fraud enforcement all year. Senator KLOBUCHAR, a former prosecutor as I am, understands how important it is to have sufficient resources on the ground committed to deterring and discovering these devastating crimes. We have been joined by a growing bipartisan group of cosponsors that now stands at 27.

And I thank the majority leader and our underappreciated cloakroom and floor staff for all that they have done to bring us to this moment. The majority leader had to file for cloture to even proceed to this bipartisan fraud enforcement bill last week, and then had to file a second cloture petition late Thursday night when Republicans would not agree to a finite list of amendments to be considered in order to complete action on the bill. A matter like this should not require one cloture vote, let alone two. A matter like that that is designed to help law enforcement and protect the savings of Americans should be acted upon by the Senate without partisanship, delay, and obstruction.

Mortgage fraud has reached near epidemic levels in this country. Reports of mortgage fraud are up 682 percent over the past 5 years and more than 2800 percent in the past decade. And massive, new corporate frauds, like the $65 billion dollar Ponzi scheme perpetrated by Bernard Madoff, are being uncovered as the economy has turned worse, exposing many investors to massive losses. We can now finally take action to better protect the victims of these frauds. These victims include homeowners who have been fleeced by unscrupulous mortgage brokers who promise to help them, only to leave them unable to keep their homes and in even further debt than before. They include retirees who have lost their life savings in stock scams and Ponzi schemes, which have come to light as the markets have fallen and corporations have collapsed. They also include American taxpayers who have invested billions of dollars to restore our economy and who expect us to protect that investment and make sure those funds are not exploited by fraud.

Federal law enforcement needs this legislation now to combat fraud effectively. In the last 3 years, the number of criminal mortgage fraud investigations opened by the Federal Bureau of Investigation, FBI, has more than doubled, and the FBI anticipates that number may double yet again. Despite this increase, the FBI currently has fewer than 250 special agents nationwide assigned to financial fraud cases, which is only a quarter of the number the Bureau had more than a decade ago at the time of the savings and loan crisis. At the current levels, the FBI cannot even begin to investigate the more than 5000 mortgage fraud allegations referred by the Treasury Department each month.

In the late 1980s and early 1990s, Congress responded to the collapse of the federally insured savings and loan industry by passing legislation similar to the bill we consider today, to hire prosecutors and agents. While the current financial crisis dwarfs in scale to the savings and loan collapse, we are poised to once again take decisive action.

At its core, the Fraud Enforcement and Recovery Act authorizes the resources necessary for the Justice Department, the FBI, and other investigative agencies to respond to this crisis. In total, the bill authorizes $245 million a year over the next 2 years to hire more than 300 Federal agents, more than 200 prosecutors, and another 200 forensic analysts and support staff to rebuild our Nation's white collar fraud enforcement efforts. While the number of fraud cases is now skyrocketing, we need to remember that resources were shifted away from fraud investigations after 9/11. Today, the ranks of fraud investigators and prosecutors are drastically understocked, and thousands of fraud allegations are going unexamined each month. We need to restore our capacity to fight fraud in these hard economic times, and this bill will do that.

Fraud enforcement is an excellent investment for the American taxpayer. According to recent data provided by the Justice Department, the Government recovers more than $20 dollars for every dollar spent on criminal fraud litigation. Strengthening criminal and civil fraud enforcement is a sound investment, and this legislation will not only pay for itself but will bring in money for the Federal Government.

In addition, the Fraud Enforcement and Recovery Act makes a number of straightforward, important improvements to fraud and money laundering

statutes to strengthen prosecutors' ability to combat this growing wave of fraud. It also strengthens one of the most potent civil tools we have for rooting out fraud in Government—the False Claims Act. The Federal Government has recovered more than $22 billion using the False Claims Act since it was modernized through the work of Senator GRASSLEY in 1986, but this bill will make the statute still more effective.

The Fraud Enforcement and Recovery Act has broad bipartisan support, as well as the strong backing of the Justice Department and the Obama administration. As explained in the Statement of Administration Policy: ''The Administration strongly supports enactment of S. 386. Its provisions would provide Federal investigators and prosecutors with significant new criminal and civil tools and resources that would assist in holding accountable those who have committed financial fraud.''

Strengthening fraud enforcement is a key priority for President Obama. During the campaign, President Obama promised to ''crack down on mortgage fraud professionals found guilty of fraud by increasing enforcement and creating new criminal penalties.'' And the President made good on this promise in his budget to Congress by calling for additional FBI agents ''to investigate mortgage fraud and white collar crime,'' as well as hiring more Federal prosecutors and civil attorneys ''to protect investors, the market, and the Federal Government's investment of resources in the financial crisis, and the American public.'' The initial Senate-passed recovery package included additional money for the FBI for this purpose, but it was cut during the negotiations that led to its passage. This bill, the bipartisan Fraud Enforcement and Recovery Act, is our chance to authorize the necessary additional resources to detect, fight, and deter fraud that robs the American people and American taxpayers of their funds.

This is and has been bipartisan legislation. Our cosponsors come from across the political spectrum—Democrats, Republicans, and an Independent. What we share is a commitment to fight fraud and the horrible costs it is imposing on hard-working Americans. I believe that our efforts are supported by most Americans. No one should want to see taxpayer money intended to fund economic recovery efforts diverted by fraud. No one should want to see those who engaged in mortgage fraud escape accountability. We need to pass this bill and give law enforcement the resources and tools they desperately need.

During these first months of the year, the Judiciary Committee has concentrated on what we can do legislatively to assist in the economic recovery. Already we have considered and reported this fraud enforcement bill, the patent reform bill, and worked to ensure that law enforcement assistance was included in the economic recovery legislation.

The recovery efforts are generating signs of economic progress. That is good. That is necessary. But that is not enough. We need to make sure that we are spending our public resources wisely and that they are not being dissipated by fraud. We need to ensure that those responsible for the downturn through fraudulent acts in financial markets and the housing market are held to account. That is why we need to enact the Fraud Enforcement and Recovery Act.

Two decades ago we responded during the savings and loan crisis by hiring more agents, analysts, and prosecutors and allocating the resources needed to catch those who took advantage to profit through fraud. We need to do so again.

The bill has also received the support of the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the National Association of Assistant United States Attorneys, the Association of Certified Tax Examiners, and Taxpayers Against Fraud. It was strongly endorsed by an editorial in The New York Times on April 18, 2009.

I thank Senators for joining with us to take decisive action to protect American families and our economy from fraud by passing this commonsense bill now.

Mr. LEVIN. Mr. President, I am a cosponsor of the Fraud Enforcement and Recovery Act of 2009, and today I vote for its enactment into law. In these difficult economic times, this bill is needed to strengthen the Federal Government's ability to combat mortgage, securities, and other types of financial fraud.

This act would put more fraud investigators, regulators, and prosecutors on the beat. It would authorize increased funding to the Department of Justice, the Federal Bureau of Investigation, the Securities and Exchange Commission, the U.S. Postal Service, the HUD inspector general, and the Secret Service. It would also ensure that the public will be able to see the results of these investments by requiring the agencies to submit a joint report to Congress on amounts spent on fraud investigations, as well as amounts recovered.

This act would also make clear that Federal mortgage fraud laws cover mortgage brokers and their agents—some of whom have wreaked a terrible toll in my State of Michigan and the country. Their misconduct has included misrepresenting mortgage terms to borrowers, convincing families to refinance their homes with mortgages that would leave them worse off financially, reaping hidden fees, and even obtaining fraudulent mortgages and stealing the funds. It is long past time to clarify and strengthen the laws that punish such wrongdoing.

The act would strengthen taxpayer protections by ensuring that moneys expended through the Troubled Assets Relief Program, TARP, are protected by the Federal fraud statute. In addition, it would expand securities antifraud provisions to cover fraud involving options and futures contracts for commodities.

The act would strengthen our antimoney laundering regime. The current money laundering statute outlaws financial transactions using the proceeds from certain listed unlawful activities. This act would add tax evasion to that list. The threat of criminal liability for money laundering is a powerful tool for prosecutors to use in their battles with those who dodge their tax obligations.

Additionally, recent court decisions have misdefined the term ''proceeds'' from the money laundering statute to mean only the net receipts from unlawful activities. By defining that term so narrowly, these court decisions have reduced the efficacy of the statute: preventing prosecutions for numerous crimes. This act will fix these decisions and explicitly define ''proceeds'' to include not only net but gross receipts from unlawful activities. This small modification will restore the money laundering statute to its rightful place as a critical tool in the battles against fraud and illicit activity.

These provisions are useful additions to Federal antimoney laundering statutes, but we should not stop here. We should also make sure that our antimoney laundering laws apply to all of the entities that may be involved in money laundering. I look forward to working with the Senate to update our antimoney laundering requirements, and continue the efforts to stop fraud, illicit activity, and tax evasion.

This act will make an important contribution to ongoing efforts to root out fraud—against individuals and against our Government. It is an important part of the effort to help put our country back on solid economic footing, and I commend the bill sponsors for their work on this legislation.

The PRESIDING OFFICER. The question is on the passage of S. 386, as amended.

The yeas and nays were previously ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote ''aye.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—92

Akaka	Ensign	Menendez
Alexander	Enzi	Merkley
Barrasso	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Hatch	Risch
Brown	Hutchison	Roberts
Brownback	Inouye	Sanders
Bunning	Isakson	Schumer
Burr	Johanns	Shaheen
Burris	Johnson	Shelby
Byrd	Kaufman	Snowe
Cantwell	Kerry	Specter
Cardin	Klobuchar	Stabenow
Carper	Kohl	Tester
Casey	Landrieu	Thune
Chambliss	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	Levin	Vitter
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Crapo	Martinez	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	

NAYS—4

Coburn	Inhofe
DeMint	Kyl

NOT VOTING—3

Kennedy	Rockefeller	Sessions

The bill (S. 386), as amended, was passed, as follows:

S. 386

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

TITLE I—FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fraud Enforcement and Recovery Act of 2009'' or ''FERA''.

SEC. 2. AMENDMENTS TO IMPROVE MORTGAGE, SECURITIES, AND FINANCIAL FRAUD RECOVERY AND ENFORCEMENT.

(a) DEFINITION OF FINANCIAL INSTITUTION AMENDED TO INCLUDE MORTGAGE LENDING BUSINESS.—Section 20 of title 18, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting ''; or''; and

(3) by inserting at the end the following:

''(10) a mortgage lending business (as defined in section 27 of this title) or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1).''.

(b) MORTGAGE LENDING BUSINESS DEFINED.—

(1) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by inserting after section 26 the following:

''§ 27. Mortgage lending business defined

''In this title, the term 'mortgage lending business' means an organization which finances or refinances any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''27. Mortgage lending business defined.''.

(c) FALSE STATEMENTS IN MORTGAGE APPLICATIONS AMENDED TO INCLUDE FALSE STATEMENTS BY MORTGAGE BROKERS AND AGENTS OF MORTGAGE LENDING BUSINESSES.—Section 1014 of title 18, United States Code, is amended by—

(1) striking ''or'' after ''the International Banking Act of 1978),''; and

(2) inserting after ''section 25(a) of the Federal Reserve Act'' the following: ''or a mortgage lending business whose activities affect interstate or foreign commerce, or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1)''.

(d) MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after ''or promises, in'' the following: ''any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in'';

(2) striking ''the contract, subcontract'' and inserting ''such grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance,''; and

(3) striking ''for such property or services''.

(e) SECURITIES FRAUD AMENDED TO INCLUDE FRAUD INVOLVING OPTIONS AND FUTURES IN COMMODITIES.—

(1) IN GENERAL.—Section 1348 of title 18, United States Code, is amended—

(A) in the caption, by inserting ''**and commodities**'' after ''**Securities**'';

(B) by inserting ''any commodity for future delivery, or any option on a commodity for future delivery, or'' after ''any person in connection with''; and

(C) by inserting ''any commodity for future delivery, or any option on a commodity for future delivery, or'' after ''in connection with the purchase or sale of''.

(2) CHAPTER ANALYSIS.—The item for section 1348 in the chapter analysis for chapter 63 of title 18, United States Code, is amended by inserting ''and commodities'' after ''Securities''.

(f) MONEY LAUNDERING AMENDED TO DEFINE PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY.—

(1) MONEY LAUNDERING.—Section 1956(c) of title 18, United States Code, is amended—

(A) in paragraph (8), by striking the period and inserting ''; and''; and

(B) by inserting at the end the following:

''(9) the term 'proceeds' means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.''.

(2) MONETARY TRANSACTIONS.—Section 1957(f) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) the terms 'specified unlawful activity' and 'proceeds' shall have the meaning given those terms in section 1956 of this title.''.

(g) MAKING THE INTERNATIONAL MONEY LAUNDERING STATUTE APPLY TO TAX EVASION.—Section 1956(a)(2)(A) of title 18, United States Code, is amended by—

(1) inserting ''(i)'' before ''with the intent to promote''; and

(2) adding at the end the following:

''(ii) with the intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or''.

SEC. 3. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR MORTGAGE FRAUD, SECURITIES FRAUD, AND OTHER CASES INVOLVING FEDERAL ECONOMIC ASSISTANCE.

(a) IN GENERAL.—

(1) AUTHORIZATION.—There is authorized to be appropriated to the Attorney General, to remain available until expended, $165,000,000 for each of the fiscal years 2010 and 2011, for the purposes of investigations, prosecutions, and civil proceedings involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) ALLOCATIONS.—With respect to fiscal years 2010 and 2011, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

(A) Federal Bureau of Investigation: $75,000,000 for fiscal year 2010 and $65,000,000 for fiscal year 2011.

(B) The offices of the United States Attorneys: $50,000,000.

(C) The criminal division of the Department of Justice: $20,000,000.

(D) The civil division of the Department of Justice: $15,000,000.

(E) The tax division of the Department of Justice: $5,000,000.

(b) ADDITIONAL APPROPRIATIONS FOR THE POSTAL INSPECTION SERVICE.—There is authorized to be appropriated to the Postal Inspection Service of the United States Postal Service, $30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(c) ADDITIONAL APPROPRIATIONS FOR THE INSPECTOR GENERAL FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—There is authorized to be appropriated to the Inspector General of the Department of Housing and Urban Development, $30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(d) ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES SECRET SERVICE.—There is authorized to be appropriated to the United States Secret Service of the Department of Homeland Security, $20,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(e) USE OF FUNDS.—The funds authorized to be appropriated under subsections (a), (b), (c), and (d) shall be limited to cover the costs of each listed agency or department for investigating possible criminal, civil, or administrative violations and for prosecuting criminal, civil, or administrative proceedings involving financial crimes and crimes against Federal assistance programs, including mortgage fraud, securities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs.

(f) REPORT TO CONGRESS.—Following the final expenditure of all funds appropriated under this section that were authorized by subsections (a), (b), (c), and (d) the Attorney General, in consultation with the United States Postal Inspection Service, the Inspector General for the Department of Housing and Urban Development, and the Secretary of Homeland Security, shall submit a joint report to Congress identifying—

(1) the amounts expended under subsections (a), (b), (c), and (d) and a certification of compliance with the requirements listed in subsection (e); and

(2) the amounts recovered as a result of criminal or civil restitution, fines, penalties, and other monetary recoveries resulting from criminal, civil, or administrative proceedings and settlements undertaken with funds authorized by this Act.

(g) ADDITIONAL APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION.—

(1) IN GENERAL.—There is authorized to be appropriated to the Securities and Exchange Commission, $20,000,000 for each of the fiscal years 2010 and 2011 for investigations and enforcement proceedings involving financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) INSPECTOR GENERAL.—There is authorized to be appropriated to the Securities and Exchange Commission, $1,000,000 for each of the fiscal years 2010 and 2011 for the salaries and expenses of the Office of the Inspector General of the Securities and Exchange Commission.

SEC. 4. CLARIFICATIONS TO THE FALSE CLAIMS ACT TO REFLECT THE ORIGINAL INTENT OF THE LAW.

(a) CLARIFICATION OF THE FALSE CLAIMS ACT.—Section 3729 of title 31, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) LIABILITY FOR CERTAIN ACTS.—

''(1) IN GENERAL.—Subject to paragraph (2), any person who—

''(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

''(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

''(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

''(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

''(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

''(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

''(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104–410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

''(2) REDUCED DAMAGES.—If the court finds that—

''(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

''(B) such person fully cooperated with any Government investigation of such violation; and

''(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

''(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.'';

(2) by striking subsections (b) and (c) and inserting the following:

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

''(1) the terms 'knowing' and 'knowingly'—

''(A) mean that a person, with respect to information—

''(i) has actual knowledge of the information;

''(ii) acts in deliberate ignorance of the truth or falsity of the information; or

''(iii) acts in reckless disregard of the truth or falsity of the information; and

''(B) require no proof of specific intent to defraud;

''(2) the term 'claim'—

''(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

''(i) is presented to an officer, employee, or agent of the United States; or

''(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government—

''(I) provides or has provided any portion of the money or property requested or demanded; or

''(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

''(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

''(3) the term 'obligation' means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

''(4) the term 'material' means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.'';

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(4) in subsection (c), as redesignated, by striking ''subparagraphs (A) through (C) of subsection (a)'' and inserting ''subsection (a)(2)''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to conduct on or after the date of enactment, except that subparagraph (B) of section 3729(a)(1) of title 31, United States Code, as added by subsection (a)(1), shall take effect as if enacted on June 7, 2008, and apply to all claims under the False Claims Act (31 U.S.C. 3729 et seq.) that are pending on or after that date.

SEC. 5. FINANCIAL MARKETS COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established in the legislative branch the Financial Markets Commission (in this section referred to as the ''Commission'') to examine all causes, domestic and global, of the current financial and economic crisis in the United States.

(b) COMPOSITION OF THE COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 2 members shall be appointed by the majority leader of the Senate;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 1 member shall be appointed by the minority leader of the Senate;

(D) 1 member shall be appointed by the minority leader of the House of Representatives;

(E) 1 member shall be appointed by the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(F) 1 member shall be appointed by the ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(G) 1 member shall be appointed by the chairman of the Committee on Financial Services of the House of Representatives; and

(H) 1 member shall be appointed by the ranking member of the Committee on Financial Services of the House of Representatives.

(2) QUALIFICATIONS; LIMITATION.—

(A) IN GENERAL.—Individuals appointed to the Commission shall be United States citizens having significant experience in such fields as banking, regulation of markets, taxation, finance, economics and housing.

(B) LIMITATION.—No person who is a member of Congress or an officer or employee of the Federal Government or any State or local government may serve as a member of the Commission.

(3) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—Subject to the requirements of subparagraph (B), the Chairperson of the Commission shall be selected jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives, and the Vice Chairperson shall be selected jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(B) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson of the Commission may not be from the same political party.

(4) INITIAL MEETING.—If, 45 days after the date of enactment of this Act, 4 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(5) QUORUM; VACANCIES.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) FUNCTIONS OF THE COMMISSION.—The functions of the Commission are—

(1) to examine the causes of the current financial and economic crisis in the United States, including the role, if any, of—

(A) fraud and abuse in the financial sector;

(B) Federal and State financial regulators, including the extent to which they enforced, or failed to enforce statutory, regulatory, or supervisory requirements;

(C) the global imbalance of savings, international capital flows, and fiscal imbalances of various governments;

(D) monetary policy and the availability and terms of credit;

(E) accounting practices, including, mark-to-market and fair value rules, and treatment of off-balance sheet vehicles;

(F) tax treatment of financial products and investments;

(G) capital requirements and regulations on leverage and liquidity, including the capital structures of regulated and non-regulated financial entities;

(H) credit rating agencies;

(I) lending practices and securitization, including the originate-to-distribute model for extending credit and transferring risk;

(J) affiliations between insured depository institutions and securities, insurance, and other types of nonbanking companies;

(K) market participant expectations that certain institutions were ''too-big-to-fail'';

(L) corporate governance, including the impact of company conversions from partnerships to corporations;

(M) compensation structures;

(N) changes in compensation for employees of financial companies, as compared to compensation for others with similar skill sets in the labor market;

(O) Federal housing policy;

(P) derivatives and unregulated financial products and practices;

(Q) short-selling;

(R) financial institution reliance on numerical models, including risk models and credit ratings;

(S) the legal and regulatory structure governing financial institutions;

(T) the legal and regulatory structure governing investor protection;

(U) financial institutions and government-sponsored enterprises;

(V) the reliance on credit ratings by Federal financial regulators, and the use of credit ratings in financial regulation; and

(W) the quality of due diligence undertaken by financial institutions;

(2) to examine the causes of the collapse of each major financial institution that failed (including institutions that were acquired to prevent their failure) or was likely to have failed if not for the receipt of exceptional Government assistance from the Department of the Treasury during the period beginning in August 2007 through April 2009;

(3) to submit a report under subsection (g);

(4) to refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States in relation to such crisis; and

(5) to review and build upon the record of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, other Congressional committees, the Government Accountability Office, and other legislative panels with respect to the current financial and economic crisis.

(d) POWERS OF THE COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this section—

(A) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(2) SUBPOENAS.—

(A) SERVICE.—Subpoenas issued under paragraph (1)(B) may be served by any person designated by the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under the authority of this section.

(3) CONTRACTING.—The Commission may enter into contracts to enable the Commission to discharge its duties under this section.

(4) INFORMATION FROM FEDERAL AGENCIES AND OTHER ENTITIES.—

(A) IN GENERAL.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this section, including information of a confidential nature (which the Commission shall maintain in a secure manner). Each such department, agency, or instrumentality shall furnish such information directly to the Commission upon request.

(B) OTHER ENTITIES.—It is the sense of the Congress that the Commission should seek testimony or information from principals and other representatives of government agencies and private entities that were significant participants in the United States and global financial and housing markets during the time period examined by the Commission.

(5) FUNDING.—The Secretary of the Treasury shall provide, out of money previously appropriated, $5,000,000 to the Commission to carry out this section, to remain available until expended or until termination of the Commission under subsection (h).

(6) DONATIONS OF GOODS AND SERVICES.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(8) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(e) STAFF OF THE COMMISSION.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(2) STAFF.—The Chairperson and the Vice Chairperson may jointly appoint additional personnel, as may be necessary, to enable the Commission to carry out its functions.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this paragraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under paragraph (1) or (2) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(4) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(5) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) REPORT OF THE COMMISSION; APPEARANCE BEFORE AND CONSULTATIONS WITH CONGRESS.—

(1) REPORT.—On December 15, 2010, the Commission shall submit to the President and to Congress a report containing the findings and conclusions of the Commission on the causes of the current financial and economic crisis in the United States.

(2) INSTITUTION-SPECIFIC REPORTS AUTHORIZED.—At the discretion of the chairperson of the Commission, the report under paragraph (1) may include reports or specific findings on any financial institution examined by the Commission under subsection (c)(2).

(3) APPEARANCE BEFORE CONGRESS.—The chairperson of the Commission shall, not later than 120 days after the date of submission of the final reports under paragraph (1), appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding such reports and the findings of the Commission.

(4) CONSULTATIONS WITH CONGRESS.—The Commission shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and may consult with other Committees of Congress, for purposes of informing Congress on the work of the Commission.

(h) TERMINATION OF COMMISSION.—

(1) IN GENERAL.—The Commission, and all the authorities of this section, shall terminate 60 days after the date on which the final report is submitted under subsection (g).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report submitted under subsection (g).

TITLE II—SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS

SEC. 201. FINDINGS.

The Senate finds the following:

(1) The United States is currently facing an unprecedented economic crisis, with massive losses of jobs in the United States and an alarming contraction of economic activity in the United States.

(2) The United States Government has pledged, committed, or loaned more than $9,000,000,000,000 as of February 2009 in an attempt to mitigate and resolve the economic crisis and trillions of dollars more may well be necessary before the crisis is over.

(3) The economic crisis reaches into, and has impacted, almost every aspect of the United States economy and significant parts of the international economy.

(4) Any thorough and complete study and investigation of this complex and far-reaching economic crisis will require sustained and singular focus for many months.

(5) A study and investigation of this size and scope implicates the jurisdiction of several Standing Committees of the Senate and, if it is to be done correctly and timely, will require a degree of undivided attention and resources beyond the capacity of the Standing Committees of the Senate, which are already over-burdened.

(6) Adding such a significant study and investigation to the duties of the existing Standing Committees of the Senate would make it difficult for such committees to get their regular required work accomplished, particularly when so much attention and so many resources are appropriately devoted to responding to the ongoing economic crisis.

(7) Dozens of important investigations have been conducted with the creation of a select committee of the Senate for a specific purpose and a set time.

(8) The American public has a right to get straight answers on how this economic crisis developed and what steps should be taken to make sure that nothing like it happens again.

SEC. 202. SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS.

There is established a select committee of the Senate to be known as the Select Committee on Investigation of the Economic Crisis (hereafter in this title referred to as the ''Select Committee'').

SEC. 203. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Select Committee is to study and investigate the facts and circumstances giving rise to the current economic crisis facing the United States and to recommend actions to be taken to prevent a future recurrence of such a crisis.

(b) DUTIES.—The Select Committee is authorized and directed to do everything necessary or appropriate to conduct the study and investigation specified in subsection (a). Without restricting in any way the authority conferred on the Select Committee by the preceding sentence, the Senate further expressly authorizes and directs the Select Committee to examine the facts and circumstances giving rise to the current economic crisis facing the United States, and report on such examination, regarding the following:

(1) The causes of the current economic crisis.

(2) Lessons learned from the current economic crisis.

(3) Actions to prevent a recurrence of an economic crisis such as the current economic crisis.

SEC. 204. COMPOSITION OF SELECT COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Select Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Select Committee shall be made not later than 30 days after the date of enactment of this title.

(b) VACANCIES.—Any vacancy in the Select Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, Chair, or Vice Chair of the Select Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIR AND VICE CHAIR.—The Chair of the Select Committee shall be designated by the majority leader of the Senate, and the Vice Chair of the Select Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Select Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Select Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Select Committee, or ⅓ of the members of the Select Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Select Committee.

SEC. 205. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this title, the investigation, study, and hearings conducted by the Select Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—In addition to the provisions of section 208(h), the Select Committee may adopt additional rules or procedures if the Chair and the Vice Chair of the Select Committee agree, or if the Select Committee by majority vote so decides, that such additional rules or procedures are necessary or advisable to enable the Select Committee to conduct the investigation, study, and hearings authorized by this title. Any such additional rules and procedures—

(1) shall not be inconsistent with this title or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 206. AUTHORITY OF SELECT COMMITTEE.

(a) IN GENERAL.—The Select Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) POWERS.—The Select Committee or, at its direction, any subcommittee or member of the Select Committee, may, for the purpose of carrying out this title—

(1) hold hearings;

(2) administer oaths;

(3) sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(4) authorize and require, by issuance of subpoena or otherwise, the attendance and testimony of witnesses and the preservation and production of books, records, correspondence, memoranda, papers, documents, tapes, and any other materials in whatever form the Select Committee considers advisable;

(5) take testimony, orally, by sworn statement, by sworn written interrogatory, or by deposition, and authorize staff members to do the same; and

(6) issue letters rogatory and requests, through appropriate channels, for any other means of international assistance.

(c) AUTHORIZATION, ISSUANCE, AND ENFORCEMENT OF SUBPOENAS.—

(1) AUTHORIZATION AND ISSUANCE.—Subpoenas authorized and issued under this section—

(A) may be done only with the joint concurrence of the Chair and the Vice Chair of the Select Committee;

(B) shall bear the signature of the Chair or the designee of the Chair; and

(C) shall be served by any person or class of persons designated by the Chair for that purpose anywhere within or without the borders of the United States to the full extent provided by law.

(2) ENFORCEMENT.—The Select Committee may make to the Senate by report or resolution any recommendation, including a recommendation for criminal or civil enforcement, that the Select Committee considers appropriate with respect to—

(A) the failure or refusal of any person to appear at a hearing or deposition or to produce or preserve documents or materials described in subsection (b)(4) in obedience to a subpoena or order of the Select Committee;

(B) the failure or refusal of any person to answer questions truthfully and completely during the person's appearance as a witness at a hearing or deposition of the Select Committee; or

(C) the failure or refusal of any person to comply with any subpoena or order issued under the authority of subsection (b).

(d) AVOIDANCE OF DUPLICATION.—

(1) IN GENERAL.—To expedite the study and investigation, avoid duplication, and promote efficiency under this title, the Select Committee shall seek to—

(A) confer with other investigations into the matters set forth in section 203(a); and

(B) access all information and materials acquired or developed in such other investigations.

(2) ACCESS TO INFORMATION AND MATERIALS.—The Select Committee shall have, to the fullest extent permitted by law, access to any such information or materials obtained by any other governmental department, agency, or body investigating the matters set forth in section 203(a).

SEC. 207. REPORTS.

(a) INITIAL REPORT.—The Select Committee shall submit to the Senate a report on the study and investigation conducted pursuant to section 203 not later than one year after the appointment of all of the members of the Select Committee.

(b) UPDATED REPORT.—The Select Committee shall submit an updated report on such investigation not later than 180 days after the submittal of the report under subsection (a).

(c) FINAL REPORT.—The Select Committee shall submit a final report on such investigation not later than two years after the appointment of all of the members of the Select Committee.

(d) ADDITIONAL REPORTS.—The Select Committee may submit any additional report or reports that the Select Committee considers appropriate.

(e) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Select Committee regarding the matters considered under section 203.

(f) DISPOSITION OF REPORTS.—All reports made by the Select Committee shall be submitted to the Secretary of the Senate. All reports made by the Select Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 208. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Select Committee may employ in accordance with paragraph

(2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Select Committee, or the Chair and the Vice Chair of the Select Committee considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—The staff of the Select Committee shall consist of such personnel as the Chair and the Vice Chair shall jointly appoint. Such staff may be removed jointly by the Chair and the Vice Chair, and shall work under the joint general supervision and direction of the Chair and the Vice Chair.

(b) COMPENSATION.—The Chair and the Vice Chair of the Select Committee shall jointly fix the compensation of all personnel of the staff of the Select Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Select Committee.

(d) SERVICES OF SENATE STAFF.—The Select Committee may use, with the prior consent of the chair of any other committee of the Senate or the chair of any subcommittee of any committee of the Senate, the facilities of any other committee of the Senate, or the services of any members of the staff of such committee or subcommittee, whenever the Select Committee or the Chair of the Select Committee considers that such action is necessary or appropriate to enable the Select Committee to carry out its responsibilities, duties, or functions under this title.

(e) DETAIL OF EMPLOYEES.—The Select Committee may use on a reimbursable basis, with the prior consent of the head of the department or agency of Government concerned and the approval of the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(f) TEMPORARY AND INTERMITTENT SERVICES.—The Select Committee may procure the temporary or intermittent services of individual consultants, or organizations thereof.

(g) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Select Committee. Such payments shall be made on vouchers signed by the Chair of the Select Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

(h) CONFLICTS OF INTEREST.—The Select Committee shall issue rules to prohibit or minimize any conflicts of interest involving its members, staff, detailed personnel, consultants, and any others providing assistance to the Select Committee. Such rules shall not be inconsistent with the Code of Official Conduct of the Senate or applicable Federal law.

SEC. 209. EFFECTIVE DATE; TERMINATION.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this title.

(b) TERMINATION.—The Select Committee shall terminate three months after the submittal of the report required by section 207(c).

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. I ask unanimous consent to speak as in morning business.

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

Mr. BURRIS. I thank the Chair.

EQUAL PAY DAY

Mr. BURRIS. Mr. President, many of my colleagues and countless Americans across the country recognize today as Equal Pay Day, a solemn reminder of the enduring wage gap that separates women from men. We mark this inequity on a day in late April because it has taken many women from January 2008 until now to earn what their male counterparts brought home in 2008 alone. This is simply not acceptable. At a time of widespread economic uncertainty, the disparity is more troubling than ever. We can and must do better.

In 1963, this body passed the Equal Pay Act which was signed into law and represented a triumph for America's workforce. That legislation laid the groundwork for significant progress. It established a set of principles that declared the United States of America as a nation that does not discriminate based on gender. It was an important first step. Nearly 50 years have passed since that day.

It is clear that we have more work to do.

The Paycheck Fairness Act, which I am proud to cosponsor, would update the original Equal Pay Act and bring the law in line with our Nation's other important civil rights laws. The Bureau of Labor Statistics tells us that in 2007, women with full-time employment earned roughly 78 cents for every dollar men earned. This represents modest progress compared to 2006, when the ratio stood at slightly less than 77 cents on the dollar. Sadly, women of color earn significantly less, even when they have the same qualifications as men they work alongside. Over the course of a 40-year career, women can lose as much as $1 million to the gender age gap. Nationwide that means roughly $200 billion of lost income every single year. With families across America tightening their belts and working harder than ever to make ends meet, it would be a serious failure on the part of this Congress to ignore this call to action.

With this in mind, we must move swiftly to pass the Paycheck Fairness Act. This comprehensive bill would encourage employers to follow the law by creating substantial incentives and strengthening penalties for equal pay violations, aligning it more closely with civil rights legislation. It would close loopholes. It would prohibit employer retaliation, improve Federal outreach, and strengthen enforcement efforts. The bill would also draw on a measure already enacted in the great State of Illinois to fix the established requirement clarifying reasonable points of comparison between employees to determine their fair wages. All of this, together with increased training, education, and research, means the Paycheck Fairness Act would invigorate the landmark equal pay legislation of the 1960s and provide much needed updates for the 21st century.

In all of my years of public life, I have had the privilege of witnessing firsthand the progress our Nation has made over the past half century. The stubborn barriers of race and gender known to my parents' generation have been shattered. Even in my own lifetime, I have seen changes few could have imagined. But for all the progress we have made, there is still a very long way to go. It is this slow, steady march toward our highest aspirations—the active progress of perfecting our Union—that defines the shared destiny of all Americans: Black and White, male and female, from all walks of life, and every corner of the globe.

The Paycheck Fairness Act represents a concrete step in closing the gender wage gap and another powerful stride in the march to equality. It is a measure that stands for common sense, good governance, and equal opportunity. I am proud to cosponsor the Paycheck Fairness Act, and I urge my colleagues to join with me in supporting women in the workforce.

It is my hope we will soon commemorate Equal Pay Day not as a grim reminder of the gender pay gap but as a day we took decisive action to stop discrimination in its tracks. I ask my colleagues to join me in this effort and to adopt the Paycheck Fairness Act without delay.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I ask unanimous consent to address the Senate for 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes without objection.

WORKERS MEMORIAL DAY

Mr. BROWN. Mr. President, today is Workers Memorial Day, which has been established for many years in this country, a day when we honor injured workers. It is a day that is particularly important for the families of some 5,000 Americans every year who are killed on the job. It is hard to believe that in our country that is about 100 workers a week. Some 15 workers every single day in our country are killed in a workplace accident, some of them union, most of them nonunion workers, workers who say goodbye to their spouse or to their children or to their mother or father and go off to work expecting just another day at the job and they never come home.

Workers are killed in all kinds of construction accidents. That number of 5,000—some 5,500, actually, in the year 2007—does not even count people who die from workplace acquired diseases, workers who might be sickened by Diacetyl, the popcorn lung disease that workers in Ohio have contracted.

Today, under the chairmanship of Senator MURRAY, the Health, Education, Labor, and Pensions Committee held a hearing to commemorate Workers Memorial Day: Dr. Celeste Monforton, Jim Frederick, and Tammy Miser. Tammy Miser's brother was

killed on the job, I believe, in Indiana. The three of them talked about how important Workers Memorial Day is. But, more importantly, they talked about how important it is that workers have better representation than provided by the Occupational Safety and Health Administration; that the families of victims or workers injured or killed on the job don't have the input into the Occupational Safety and Health Administration they should have. In fact, those workers complain—as did people who represented them today at this committee hearing—that too often during the last few years there has been a voluntary kind of compliance through OSHA, and voluntary compliance doesn't work to save lives and make the workplace safer. So I applaud what Secretary Solis is doing, and I applaud what Senator MURRAY is doing.

I close with this: One of my first Workers Memorial Days was in Lorraine, OH, arranged by local labor organizations. I was given this pin I wear. It is a depiction of a canary in a bird cage. The mine workers, as we know, 100 years ago used to take a canary down in the mines with them. If it died from lack of oxygen or toxic gas, the miner knew he had to get out of the mine immediately. In those days there were no unions strong enough to protect them, and they had no government that cared enough to protect them. Those days are behind us.

Back in 1970, the Occupational Health and Safety Agency was set up by the Government. It has made a huge difference, but nonetheless 100 people in this country show up for work and die on the job every single day on the average, and that is not counting workplace diseases.

So we have a lot of work to do so that by April 28 of next year we can commemorate Workers Memorial Day with significantly fewer workplace injuries and significantly fewer workplace deaths.

I yield the floor and thank the President.

EXECUTIVE SESSION

NOMINATION OF KATHLEEN SEBELIUS TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will return to executive session to resume consideration of the Sebelius nomination.

RECESS

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

Whereupon, the Senate, at 12:35 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURRIS).

EXECUTIVE SESSION

NOMINATION OF KATHLEEN SEBELIUS TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. The Senator from Maryland is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Sr. Asst. Parliamentarian (Elizabeth MacDonough) proceeded to call the roll.

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

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

Mrs. SHAHEEN. Mr. President, I rise in support of our nominee for Secretary of Health and Human Services, Gov. Kathleen Sebelius. I have known her for over 20 years. I believe she is an excellent nominee, one who brings a wealth of knowledge and skill to the position at a time when we need it the most.

As our country and the world begins to battle a very serious outbreak of the swine flu, we need Governor Sebelius's leadership now. Over 100 deaths have been reported in Mexico, and here in America we have confirmed cases in 5 States. It is urgent we have a leader in place at Health and Human Services who can respond to this threat.

Governor Sebelius is that person. She recognizes the need to work with experts and scientists on a global scale to make key public health decisions. Our citizens need and deserve to know that our Government is doing everything it possibly can to protect the public and to control this outbreak. We simply cannot afford to delay action in filling this important Cabinet post.

Also, as we embark on national health care reform, we need a leader who appreciates the importance of health care security to everyday people. Kathleen Sebelius is a commonsense leader who understands the complexities of our health care system. Through her experience as Governor of Kansas, State insurance commissioner, and President of the National Association of Insurance Commissioners, she has a broad and deep understanding of health care and will be an outstanding leader as we work to fix our broken system.

Governor Sebelius has worked tirelessly to improve the quality and affordability of health care for the people of Kansas, and she will do the same for all Americans.

As a former Governor, I understand the pressures of balancing a budget and working across party lines to get things done, and I commend Governor Sebelius for her track record of success. Upon taking office, she faced a projected $1 billion deficit. So she implemented a top-to-bottom audit of State government that produced significant savings and efficiencies. Under her leadership, Governor Sebelius expanded health care for children and worked to reduce the cost of prescription drugs. Working across the aisle, she was able to reorganize State health care programs to make health care more affordable by creating an independent State agency to control spending on health care and simplify the process of obtaining health care for her constituents.

Undoubtedly, Governor Sebelius brings a wealth of knowledge and leadership experience that will be critical in her new role as the Secretary of Health and Human Services.

I urge my colleagues to join me in supporting nominee Kathleen Sebelius for Secretary of Health and Human Services. She is the right choice at a time when we desperately need leadership at the Department of Health and Human Services.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise today to speak in support of the confirmation of Governor Kathleen Sebelius as Secretary of the Department of Health and Human Services.

This nomination comes at a transformational moment and at a monumental time—as the American people look to the Federal Government to achieve systemic change to ensure that all have affordable access to health care. The Senate Finance Committee, of which I am a member—along with the HELP Committee—is working mightily to craft reforms to address the current unacceptable reality of 70 million Americans lacking adequate coverage, and the increasingly unsustainable costs that undermine the health security of all Americans.

At the same time, our Nation faces the most severe economic distress we have witnessed since the Great Depression, with more than 2.6 million jobs lost last year. And it is the Department of Health and Human Services that stands at the forefront of helping to mitigate the consequences through our health and poverty programs. Therefore, there can be no doubt of the necessity for sound executive leadership at HHS.

Indeed, given both its prominence and its status as one of the largest departments in the Federal Government—which also oversees programs upon which nearly 1 in 3 Americans rely for their health care—our next Secretary of Health and Human Services should be a talented public official possessing a depth and breadth of experience as both a skilled administrator and manager, and a professional committed to systemic health reform. In that light, as former Kansas State Insurance Commissioner and now as Governor—and with her experience in tackling health care issues in her State—I believe Governor Sebelius possesses the knowledge and skills to meet the pressing demands facing our next leader of HHS.

In her work as Kansas State Insurance Commissioner she rightly recognized a takeover of her State's largest

health plan as a threat to affordable coverage and fought vigorously and successfully to maintain its independence. As Governor, she worked to reduce State government spending, and resisted tax increases until the Kansas State Supreme Court mandated a new school financing program. That is significant as, for health reform to succeed, we must ensure that every American is assured of affordable access to quality health coverage—but, of equal importance, we must reform health care to deliver better value and that requires a Secretary who will look first to cost savings and delivery reforms before we consider new revenue.

Moreover, HHS will be well-served by a Secretary who is committed to building the bipartisan consensus necessary to pass the best possible health reform legislation that will have the greatest level of credibility with the American people. And on that note, it is telling that Governor Sebelius was the first Democrat elected Kansas State Insurance Commissioner in more than 100 years, that in her gubernatorial campaigns she has twice chosen a Republican running mate, and that Time Magazine ranked her in 2005 as one of the five best Governors.

Given her history, I think the Governor understands the hazards of a politically polarized environment. Indeed, today, some propose that we craft the most significant health legislation in our history by undermining the very rules of the Senate which help ensure that this Chamber creates broad consensus—through the application of the budget reconciliation process. But to craft a complex reform of health care with this approach would be wholly inappropriate, as any bill it would produce would lack the broad support necessary to both enact and sustain such a momentous initiative. We should not be drawing lines in the sand up front in this debate. It is neither constructive nor conducive to the process, and Governor Sebelius should recognize that reconciliation threatens to simply increase polarization.

I also note that, while the Governor has enjoyed notable successes in Kansas, she has also experienced disappointments in her efforts to expand coverage, so she certainly comprehends the nature of the difficulties ahead. Certainly, there will be an intense struggle by myriad interests to protect the status quo. But the reality is clear. Unless we achieve an equitable, balanced approach, we cannot achieve sustainable health security for all.

That should mean a level playing field with regard to the competitive environment. We must ensure there is proper regulation and oversight—and at the same time, we must assure that real competition and innovation are facilitated among health plans—just as it exists between health care providers, and producers of drugs and medical devices. The creation of a public plan option certainly is no panacea to the problems of health coverage—it simply does not address the fundamental market reforms required. In her Finance Committee confirmation hearing, I questioned Governor Sebelius on this issue, and she noted that proper standards and regulation, similar to the approach I have taken with Senator DURBIN in the Small Business Health Option Program Act, SHOP, to reform the small group market, is critical to making insurance markets work. I was pleased to see her willingness to examine this issue, as she noted, ''It may be at the end of the day that the standards are effective enough that the competition from a public plan is not a valuable asset.'' I look forward to working with Governor Sebelius to develop solutions to ensure that insurance markets do work effectively so we attain both the competitive pricing and choices in coverage which are so valued by Americans.

I know that several of my colleagues will oppose Governor Sebelius' nomination over the issue of abortion rights in general and over campaign contributions from one doctor in particular. In that vein, Governor Sebelius has rightly noted that she should have consolidated reporting of all contributions from the doctor, his practice, and his family, both to her campaign and political action committees. Concurrently, it is important to note that all of these contributions were disclosed. And, in my view, there is no reason to believe this regrettable oversight was anything but unintentional.

Moreover, it would be unrealistic to deny that sharp divisions exist in our Nation regarding reproductive rights, and I certainly respect there are deeply held views on both sides. At the same time, it should not be surprising that a nominee of our current President would hold the views she has espoused and, in my view, that must not unduly detract from a thorough and comprehensive analysis of her qualifications.

Finally, the fact is that in this time of historic challenges—and especially given the concerning developments of this week, as we face the threat of an influenza epidemic—HHS should have a Secretary to lead the Department. While various units from CDC to the Department of Homeland Security have worked together to coordinate efforts and marshal resources to combat this outbreak, HHS leadership is vital to achieving optimal coordination of its agencies and effectively communicating to the public.

Today, Governor Sebelius comes before us as an individual who is highly capable, eminently qualified, and managerially prepared to assume the helm of the Department of Health and Human Services. She is fully cognizant of the daunting challenges ahead, and she will be an asset to this administration. I look forward to working with her this year to achieve health security for all Americans, and I encourage my colleagues to join with me in supporting the Governor's confirmation.

Mr. MCCAIN. Mr. President, I regret that I must oppose the nomination of Gov. Kathleen Sebelius to be the next Secretary of Health and Human Services, HHS. I reached this decision after examining her qualifications and positions on matters important to the health and well-being of the American public. I did not treat this decision lightly, only reaching it after very careful deliberation.

The next Secretary of HHS is expected to oversee an effort to overhaul our Nation's health care system in the coming year, and Americans need to know that their rights as patients will be respected and protected by Washington. While I appreciate Governor Sebelius's efforts to respond to some of my concerns about different health care proposals that the administration supports, her responses did not offer the assurances that I sought. Namely, I am concerned over her responses to questions posed to her by the Health, Education, Labor, and Pensions, HELP, Committee and Finance Committee members on the role of public health plans in health reform and over the role of comparative effectiveness and its potential role in dictating medical practice patterns.

I believe that our Nation's health system is broken and in order to fix it, we must address health insurance as part of the overall reform effort. However, I believe that reforms should invigorate the free market system and promote competition among health insurance plans to cover every individual. I do not think that our Nation can afford, as Governor Sebelius and President Obama suggest, a government-run health plan included in a National Health Insurance Exchange. Such a plan would have many unfair advantages over private plans, including having the weight of the Federal Government to potentially administratively set prices. Additionally, and more importantly, a recent Lewin Group study estimated that about 120 million Americans could lose their employer-based coverage and be pushed into a government-run plan—contradicting then Candidate Obama's promise that if Americans like the insurance they have today, nothing will change. My fears that a public plan would be unfairly advantaged and be the start to a single-payer system were unfortunately not alleviated by Governor Sebelius's responses.

I strongly oppose a European style approach to health care where care is effectively rationed. Americans deserve the best health care system in the world—and with appropriate reforms we can continue to assure everyone access to quality health care. I also understand that today's medical research is increasingly focused on an individualized treatment approach for patients, and I believe that this treatment trend is threatened by efforts to embrace comparative effectiveness research. While I believe that comparative effectiveness research can provide

patients and doctors with the vital information necessary to make the right decisions in an individual's medical case, I am greatly concerned over how this research could be used by the Federal Government. One only need look at Great Britain where centralized authorities—rather than a patient's doctor—decide whether cancer patients can receive lifesaving care and which patients are denied access to beneficial treatment options to see why so many of us are alarmed. While Governor Sebelius said that the Medicare Modernization Act of 2003 prevented using comparative effectiveness research for coverage decisions, the National Institutes of Health appears to be moving in that direction by funding comparative effectiveness research that includes treatment cost comparisons. This trend is alarming and should be of concern to all individuals in vulnerable populations, such as minorities, women, or individuals with multiple conditions, who could be forced into a one-size-fits-all treatment model.

Overseeing health reform will be a herculean task and Americans need to be assured that they will not lose the private health coverage that they want to keep or that their treatment options will have to be approved by a government bureaucrat. Mr. President, while I respect the right of President Obama to nominate Governor Sebelius to be the next Secretary of HHS, she has failed to provide us with those assurances, and I regret that I cannot support her confirmation.

Mr. ENZI. Mr. President, I rise today in opposition to the nomination of Governor Kathleen Sebelius as the Secretary of Health and Human Services. As U.S. Senators, one of our most important responsibilities is confirming qualified, and, hopefully, superior nominees to lead our executive agencies. I am one of several Senators with strong reservations regarding the nomination of Governor Sebelius, and it is important to take this time to explain my opposition to this appointment.

In order to fulfill our responsibilities under the advice and consent clause properly, this institution has a process for vetting Presidential nominees. The nominee is required to complete a host of paperwork to the authorizing committee, in this case the Senate Finance Committee, accompanied by a sworn affidavit. I was very disappointed to learn that Governor Sebelius amended her paperwork to the Finance Committee as a result of unpaid taxes and understated campaign contributions.

The HELP Committee held a hearing on Governor Sebelius' nomination due to the high number of health and early learning statutes and programs that fall under the committee's jurisdiction. During this hearing, I asked Governor Sebelius her thoughts on using reconciliation to advance comprehensive health care reform legislation. Her response was to keep all options on the table.

I couldn't disagree more. But unfortunately it appears that is the direction health care reform will take this year. This week the Senate will vote on a conference agreement for the fiscal year 2010 budget resolution that includes reconciliation for health care reform. Using budget shortcuts—known inside the beltway as reconciliation—is the exact opposite of keeping all options on the table because it shuts out members of the minority party. It will also shut out many centrist Democrats, who want to see health care reform based on a competitive private market, which is fully paid for. That is not a formula for bipartisan success. An open, transparent process with a full debate is the best way to achieve a bipartisan product.

At both the Member and staff level, Senators on both sides of the aisle continue to meet regularly to discuss health care reform, and specifically what shape it will take. I believe that if we continue to negotiate in good faith, this process can lead to a bipartisan health reform bill that will enjoy broad bipartisan support now and in the future.

Ensuring access to affordable, quality and portable health care for every American is not a Republican or a Democrat issue—it is an American issue. Our health care system is broken, and fixing it is one area where I hope my 80 percent rule comes into play so commonsense reforms can be made. People who have worked with me over time know that the 80 percent rule is one of the main philosophies I follow to get things done. In applying this rule, I try to focus on the 80 percent of the issues the Senate generally agrees upon, while not fixating on the remaining 20 percent, which are divisive and can sometimes overwhelm the majority of issues that we agree on.

The next Secretary of HHS will undoubtedly have a critical seat at the table in the health care reform debate. For these reasons it is important to have a Secretary in place who supports an open, transparent process without the distraction of tax issues, misreported campaign contributions, and questionable affiliations.

I respect that the President is entitled to staff the executive branch with individuals of his choosing. We may not always agree on every issue. I am and will remain staunchly pro-life, and will continue to advocate for legislation to protect the rights of the unborn. However, if Governor Sebelius is confirmed, I will diligently work with her to overcome obstacles standing in the way of solutions to the health care problems facing America.

Prior to her hearing, I met with Governor Sebelius and we discussed the unique challenges that face rural and frontier states. People living in rural areas in Kansas, similar to those in Wyoming, face difficulties in access to primary care physicians and preventive services. Rural and frontier areas struggle to attract and retain doctors and other health care providers. In the 10-steps health care reform bill I introduced last year, I emphasized the importance of access to affordable health care for people in rural and underserved areas. Governor Sebelius understands the challenges in this area—and I hope we can work together to find solutions for this common priority.

In closing, while I intend to vote no on this nomination, it is my hope and expectation that we will put aside our differences to find meaningful solutions that will make a positive difference in people's lives.

Mr. GRASSLEY. Mr. President, I am pleased to be here again to speak in support of the Fraud Enforcement Recovery Act. I urge my colleagues to join me in supporting this bill so we can pass this important legislation. I cosponsored this bill because I believe that we need to do something to show the American people that we are taking their tax dollars seriously and committed to rooting out fraud, waste, and abuse of Government programs.

The fraud enforcement tools and resources provided in this bill will help Federal agents and Federal prosecutors devote more resources to investigations into financial and mortgage frauds. The criminal fraud law updates in this bill will also help send a message to individuals in the future that fraud against homeowners and investors won't be tolerated. While it is true the criminal law provisions can't apply retroactively to conduct that led us the current financial and housing crises, they will help prosecutors in the future and will help to deter future criminal conduct.

Finally, and perhaps most importantly, this bill makes critical amendments to the Federal False Claims Act that will ensure those who rip off the Government can't hide behind judicial loopholes created in the law. These edits to the False Claims Act are important to ensure that the Justice Department and individual qui tam whistleblowers aren't blocked by some procedural hurdle put in place by judges. When I authored the 1986 amendments to the False Claims Act, I couldn't imagine the types of decisions we have seen from courts. These courts have read all sorts of new procedural and intent requirements into the false claims that were never imagined nor were they intended by Congress. These amendments will help restore the original intent of the False Claims Act and keep it working into the future so it can continue to add to the $22 billion already recovered under this powerful law.

I urge my colleagues to join me in supporting this important legislation so we can show the taxpayers we are serious about fighting fraud against homeowners, investors, and the Federal Government.

Ms. MIKULSKI. Mr. President, I rise today to support the nomination of Kathleen Sebelius to be the Secretary of Health and Human Services.

I am pleased that the Senate today will finally confirm Governor Kathleen

Sebelius as the new Health and Human Services Secretary. Governor Sebelius brings much needed policy and management expertise to the job as our Nation Faces serious public health challenges. Our immediate concern is the effective coordination of our Nation's public health resources to combat the emerging swine flu pandemic. Sebelius and her team must immediately respond to contain this very serious threat.

I look forward to working with her as she helps fulfill President Obama's promise to enact comprehensive health reform. Governor Sebelius will add urgency, substance, and know-how to pass complicated health legislation that will benefit American families and businesses.

Govenor Sebelius will serve as the effective CEO of HHS and ensure its agencies are well run and consumer focused. She has the difficult task of not only restoring the public's confidence in our Nation's health agencies, but also building the trust of HHS' committed workforce. Special effort must be made to listen and learn from the scientists at FDA who lacked effective leadership during the previous administration. Governor Sebelius' immediate leadership also will help guide the implementation of the economic recovery act that included several important health initiatives—particularly the development and adoption of interoperable health information technology standards. I am confident she will meet the intent and deadlines enacted by Congress.

Mr. DURBIN. Mr. President, I rise to speak on behalf of the nomination of Gov. Kathleen Sebelius as Secretary of Health and Human Services.

Just a few moments ago at lunch, we were briefed by Secretary Napolitano and a spokesperson from the Centers for Disease Control about the swine flu epidemic. It is a serious issue, much more serious in Mexico and other places than the United States, but it is being taken very seriously and watched closely by those in charge of our public health in America. That is why it is so important for us to fill this particular spot in the President's Cabinet. It is the last spot to be filled. The nominee, the Governor of Kansas, Kathleen Sebelius, is an extraordinarily good choice for this post of Secretary of the Department of Health and Human Services.

We consider so many health care issues. In fact, when the people of this country are asked about the priorities they identify, their highest priority is health care, as it should be. If we do not have our health, not much else matters.

We have tried during this Congress with this new President to do that which is important to address the public health concerns of Americans. We passed a children's health bill to provide health care coverage, insurance coverage for an additional 4 million kids. We passed an economic recovery package that provides States with the resources they need to provide health care services to millions of low-income families and seniors on Medicaid. We passed a new law to help working families continue to pay for health insurance even after they lose their jobs. We also provided money in the Recovery and Reinvestment Act to fund investments in health information technology which can save the Nation billions of dollars and avoid costly and deadly medical errors. It has also provided assistance to community health centers, a resource in my home State of Illinois which is exceptional. It provides health care for those who have nowhere else to turn. It is some of the best care in America. In the Omnibus appropriations bill, we provided billions of dollars for medical research, infant and maternal health, and other health services for those least able to afford the care they need. We have a lot more to do, and that is why we need to fill this spot.

The current economic crisis has made health care reform more important. More than 47 million Americans, including 9 million American kids, do not have health insurance. Those families woke up this morning with children in their houses without the peace of mind that if there is an accident, a diagnosis, or some illness, they would have health insurance to guarantee they have quality care, good doctors and hospitals to turn to. A third of Americans under the age of 65 have experienced a period without health insurance in the past 2 years. That is one out of three Americans under the age of 65. Families and small businesses work harder than ever to provide health insurance, and the costs just keep going up.

As unemployment has reached 8.5 percent nationwide, this rate has troubled us. In some areas, it is much higher. It is 9.1 percent in Illinois. With each 1 percent rise in the Nation's unemployment rate, the number of uninsured Americans increases by 1.1 million people.

One of the biggest worries I found among unemployed workers in Illinois is health insurance. I recently visited Richland Community College in Decatur. I sat down with a number of young men and women who lost their jobs, many of them with children. That was the first thing they brought up, whether their spouse was working and had health insurance, whether there was somewhere else they could turn. A growing number of businesses are backing away from health insurance because it is expensive.

We cannot wait for the economy to improve before tackling this health care issue. Too many Americans have needs that cannot wait.

There are no easy fixes to this, but I believe President Obama is right by stepping up and nominating Gov. Kathleen Sebelius to be Secretary of the Department of Health and Human Services.

Last week, the Senate Finance Committee approved her nomination. Earlier this month, I had the opportunity to sit down with her and talk about the issues firsthand. Her commitment to this issue is not just lipservice. She has shown an ability to overcome partisan politics in her home State for her people and represent the best interests we need in America.

During her two terms as Governor, Governor Sebelius and her administration have been notably bipartisan. She was elected to her first term with a former Republican businessman as her running mate. She ran a second time with the former State Republican chairman on her ticket. In a State where the opposition party holds strong majorities in both chambers, the Democratic Governor has been able to reach across the aisle to solve problems and help the people of Kansas.

Before being elected Governor, she was Kansas insurance commissioner from 1994 to 2002. During this time, she refused campaign contributions from insurance companies. She protected the people of her State from increases in premiums by blocking the sale of Blue Cross Blue Shield to an out-of-State company. She helped draft a proposed national bill of rights for patients and served as the president of the National Association of Insurance Commissioners. This critical experience prepares her well in her new role on the President's Cabinet dealing with health care reform, Medicare, and Medicaid. While she has also dealt with these broader health coverage issues, she has not lost sight of the role that prevention and public health must play in any health reform effort.

Through her Healthy Kansas initiative, Governor Sebelius encouraged Kansans to increase fiscal activity, choose a healthier diet, and avoid using tobacco products. As Governor, she made investments to help women avoid unintended pregnancies, increase health services for pregnant women, and provide support services for families. These are goals that I think most of us can certainly agree on.

We discussed the issue of food safety, which is very important, with the Food and Drug Administration under her supervision, when she is confirmed in this process, and she understands there is a parade of concerns, whether it is salmonella in peppers and peanut butter, melamine-spiked pet food and milk products from China, E. coli in spinach, and the list goes on and on. We can do better. Secretary of Agriculture Vilsack and Kathleen Sebelius, once she is confirmed, can work together to bring us the very best in food safety in America and to protect families who count on their Government to do the job.

I commend President Obama for his leadership on this issue, but with these two spots filled, with the Secretary of Health and Human Services and Agriculture, then we can step forward and get something done.

There is also a big question about this issue of comparative effectiveness, which has been raised by some on the other side in relation to this nomination. Congress and President Obama are committed to expanding America's access to high quality health care, and that is why we have made comparative effectiveness research a high priority. Through the economic recovery package, we committed over $1 billion to funding research to compare the relative clinical risks and benefits of different treatments for the same illnesses.

Some of my colleagues argue this research should only focus on clinical effectiveness, without taking into account the cost of a treatment or procedure. However, I think addressing cost is a major concern of everyone, not just in Government but of the American people. They believe health care costs are too high and they are interested in any steps we can take to reduce waste and use health care dollars more efficiently. That effort is an important part of health care reform. We can't continue to spend as much as we have on health care without breaking the bank, leaving deficits for our children and basically bankrupting the American Treasury.

Part of the solution to our health care reform is reducing unnecessary cost and waste. Research may show that there are some treatments genuinely less effective than others in comparable populations. No one should be afraid of looking at the solid factual evidence to make these comparisons. Some of my colleagues oppose comparative effectiveness research and argue that Washington bureaucrats shouldn't interfere with a patient's right to choose treatment or substitute the Government's judgment for that of a physician. I don't argue with that premise, but let's get to the bottom line. When a decision is made about an illness affecting you or a member of your family, you want the most effective treatment. You want to be certain it is going to work. You want to have confidence that the person providing it is making the right choice.

We have a right to ask whether there is a more economical choice, one that can reach the same result without the same cost; whether it is the use of generic drugs, for example, which have been proven to be effective and lower cost than many brandname drugs, or whether it is a procedure that is going to have a lot more chance of success. Why are we afraid to look at this information? Some on the other side are. They shouldn't be. This is common sense that we would ask these questions and come up with this information so we can make the right decision.

I would add that Kathleen Sebelius has proven, as the executive in a major state in America, that she understands the responsibility of leadership and the accountability of those in leadership. Few challenges we face in America are as grave as our health care system and its need for reform, but it is an effort we must undertake. Unsustainable health care costs are the one primary threat to our economic security.

The President said it: We are draining our Federal budget and placing at risk the financial well-being of America if we don't look at the real cost of health care. It is time for reform, and the first real step is to confirm Governor Kathleen Sebelius as our Nation's chief health official. Americans deserve someone they can trust to see this commitment through. She has shown this in her service in Kansas and her commitment to public life.

I hope my colleagues in the Senate will join me in supporting her nomination today. There are some who have raised a myriad of different issues that concern them; some are even beyond the reach of Kathleen Sebelius in her role as Governor. She was given Federal Court cases and Federal laws to follow, and she did as she was bound to do by her oath of office. But we should give her a chance now at the Federal level to help lead this country into a new day of health care reform.

Mr. President, I yield the floor, and 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. KYL. 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. KYL. Mr. President, Governor Sebelius is a talented public servant. Nonetheless, I will oppose her nomination for several reasons.

Others have emphasized her relationship with Dr. George Tiller, so I will address another matter—my concerns about the use of comparative effectiveness research under the administration's proposed health care plan to ration health care.

Comparative effective research is currently used to evaluate the strength and weaknesses of various medical interventions. If structured appropriately, it can be a great help to both physicians and patients, to help them make health care decisions. But without the appropriate safeguards, the Government can misuse it to deny or delay patient coverage and services based on factors such as age, relative health, or the number of people ahead in line for a particular treatment.

Unfortunately, Governor Sebelius's answers to my questions made clear that the administration and Health and Human Services under her watch would be unwilling to support patient safeguards. She did not provide any assurance that Health and Human Services, Federal health care programs, or any new Government entity, such as the Federal Coordinating Council, will not use this tool to ration or deny care. This should be a matter of concern for every American.

We must not enable a panel of Washington bureaucrats to decide who is eligible for a particular treatment or when they can get it. In countries that have government-rationed health care, patients sit on long waiting lists to have procedures such as an MRI or dental surgery or hip replacement, to name a few.

I recently read an article in the Wall Street Journal by Nadeem Esmail, Director of Health System Performance Studies at the Fraser Institute in Calgary, in Alberta, Canada, entitled: ''Too Old For Hip Surgery.'' The article recounted stories of our neighbors in Canada who routinely wait months and even years for a specialist's care. Many cross the border to see U.S. doctors to get the immediate treatment they need. Lawsuits tied to Canada's health care rationing system often wind up decided by their courts. Is this what we want in America?

Governor Sebelius's answers about comparative effectiveness research relied on two points, which were inaccurate and contradicted one another, raising more doubt rather than providing assurance. Let me briefly address those points.

When Governor Sebelius stated during her hearing, ''The law prohibits Medicare from using comparative effectiveness research to deny coverage,'' she was referencing the 2003 drug bill which applies only to prescription drugs and not to any other aspect of medical treatment. So she is factually wrong to suggest that could be a future limitation on health care generally. Of course, the fact that we so limited it in the 2003 prescription drug bill makes the point that it does need to be limited.

In this regard she also said: ''When authorizing comparative effectiveness research in both the Medicare Modernization Act and the American Recovery and Reinvestment Act, Congress did not impose any limits on it.'' That statement is true. It also is precisely the problem.

The National Institutes of Health is already taking the steps necessary to make cost-based research a priority and to use it to ration health care. A recent National Institutes of Health project description states:

> Cost effectiveness research will provide accurate and objective information to guide future policies that support the allocation of health resources for the treatment of acute and chronic conditions.

Allocation of health resources is, of course, a euphemism for denying care based on cost. And Governor Sebelius will not agree to terminate this project.

There is no question that health care reform is badly needed, and I want to work toward that goal. All Americans, especially those who are unemployed or who work for a business that doesn't provide health insurance or who have a preexisting condition deserve a better approach. But rationing based on cost is neither a practical nor satisfactory route to achieve it; it will delay access to treatment that may be urgently

necessary and discourage the kind of research that leads to promising new treatments.

I believe every American has the right to choose the doctor, hospital, and health plan that best fits his or her needs. Flexibility is essential in medicine, and each patient should be cared for as an individual, with a treatment regimen crafted and tailored by his or her own physician, not by a Washington bureaucrat. So I oppose the nomination of Governor Sebelius to head the Health and Human Services Department, because I do not believe she is sufficiently committed to these same principles.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise to speak on behalf of the Sebelius nomination. And before he leaves the floor, I also want to say to my friend from Arizona that I think he knows I share many of his substantive concerns about what it is going to take to get bipartisan health reform legislation. For example, a key component of it will have to be malpractice reform. It will have to include the areas the Senator from Arizona has touched on—the question of comparative effectiveness. And I think in both of these areas there is a long way to go to get it right. It is my interest, particularly this afternoon, to assure the Senator from Arizona that there is going to be an effort to pull out all the stops to make this a bipartisan effort here in the Senate to fix America's health care, and I want to tell him I am looking forward to working with him on that.

To pick up on this point, many Senators have come to the floor to discuss the needs of tackling health care issues in the kind of bipartisan fashion that Senator KYL has talked about and I have mentioned. I strongly support the Senators who are making this a special focus of this discussion today when we consider Governor Sebelius's candidacy to head the Department of Health and Human Services.

For a bit of background, Senator BENNETT and I, in particular, have been working for several years in talking to most Members of the Senate. I personally have gone to see about 85 Senators in their office, to listen to them, to get their views about health care reform, all with an idea to make the issue of reconciliation on health care irrelevant. What we wish to do, Senator BENNETT and I, working closely with the chairs and ranking minority members of our key committees, is to find a way to get a very substantial bipartisan vote here in the Senate for health care reform. I think we are well on our way to doing that. I believe there is literally a philosophical truce on health care within the grasp of the Senate.

When one looks at this debate, both political parties have had valid points to make. My party, for example, is right on the idea that we cannot fix health care unless all Americans get good-quality, affordable coverage. The reality is, we cannot begin to organize the market for health care unless we get everybody covered. Without covering everybody, there is too much cost shifting, there is not enough focus on prevention and wellness, and we have a real question about what to do about clogging up hospital emergency rooms—which is an issue in Colorado and Oregon and across the land.

So Democrats have been right on the point of saying to fix American health care all Americans have to have good-quality, affordable coverage. But our colleagues on the other side of the aisle—and Senator BENNETT has championed this; Senator GRASSLEY has championed this—have been right in saying there needs to be a significant role for the private sector in American health care as well. It is going to be important not to freeze innovation, to steer clear of price controls, to have a wide berth for the private sector to innovate and offer private sector choices as part of the solution to this challenge of fixing American health care. So we meld together these two points of view—Democrats who have been right on the idea that we have to cover everybody, Republicans who have had a valid point with respect to a role for the private sector—and, in my view, we are on our way to 68, 70, 72 votes in the Senate for comprehensive health reform.

So we very much need to tackle this in a bipartisan way. In my view, there are a few words that speak volumes about Governor Sebelius's outlook on the need for having bipartisanship in the health care arena. Those words were spoken by a former leader in the Senate, Bob Dole. I want to quote for the Senate a couple of the remarks made by Senator Dole when he came before us on the Senate Finance Committee.

Senator Dole said:

> For more than 20 years, Kathleen Sebelius has served the State of Kansas as a legislator, insurance commissioner and Governor. All of her accomplishments required bipartisan approaches. Her work has earned her the respect of Democrats and Republicans. . . .

Senator Dole goes on to note that one of our most respected former colleagues, Nancy Kassebaum Baker, has actually written Members of the Senate with respect to her support for Governor Sebelius.

Then Senator Dole goes even further, and he says:

> Governor Sebelius and I are from different parties. We have different views on different issues, some highly controversial. But that is not the issue here today. Candidate Obama is now President Obama and gets to make the Cabinet selections. He has determined that she is well qualified and that she understands the importance of the enormous task before her when confirmed by the entire Senate. I agree and that's why I am here to support her nomination. We need a Secretary of Health and Human Services—

Said Senator Dole—

> who has the skills, experience and courage to shape and guide this historic legislation through Congress. It will not be easy but I know Governor Sebelius will never stop trying.

Those were the words of former Senator Dole, somebody to whom I look again and again for counsel on health care. I think it is fair to say a great many of our colleagues on the other side of the aisle look to him for counsel on health care.

Those who know Governor Sebelius best, such as Senator Bob Dole, have, in my view, said it better than any of us could. They know her, they have worked with her, they have watched her try to forge coalitions. As insurance commissioner, she has been a leader nationally in the insurance field with the National Association of Insurance Commissioners. I think she is going to be a pragmatic coalition builder who is going to work with a very specific focus toward trying to bring the Senate together to tackle this critical issue.

We know there are some particularly important challenges ahead of us. I have said one of the first priorities in health reform is to make sure those who have coverage today—in Colorado and Oregon and across the country—see that health reform works for them. Some writers have called that group the ''contentedly covered,'' the people who already have health care coverage in America today.

I think there are four important priorities for the Congress to address in making sure those who have health care coverage today see that the system works for them. Those priorities are, first of all, making sure they can keep the coverage they have. We have written it into the Healthy Americans legislation. Chairman BAUCUS has it in his white paper. It has to be a matter of law. Sometimes people joke about it: We can put it in the Pledge of Allegiance. It is vitally important that people be able to keep the coverage they have.

The second factor that is so important is to make sure people who have coverage have options to save some money on their health care in the future. They want to contain costs because they know right now they are not even getting an increase in take-home pay because health care gobbles up everything in sight. So let's make them wealthier in the process of health reform, and let's say that, if you want to have one of the additional choices, the private sector choices that are offered in health reform, and you can save some money by choosing one of those choices rather than keeping what you have, you get to keep the difference. That is something I think will be attractive to those who have coverage.

The third area we ought to zero in on is making sure folks with coverage have the opportunity to be healthier. I think it is well understood that much of American health care is more sick care than health care. So let's get some incentives in place so everybody has a

new focus on wellness. I personally would like to see those who are on Medicare who lower their blood pressure and lower their cholesterol get reduced premiums. It is called Outpatient Care, Part B premiums. Let's give them a lower premium when they lower their blood pressure and lower their cholesterol.

When there is a parent in Oregon or Colorado or across the country who enrolls a youngster in a wellness or prevention program—let's say for a weight problem—let's give the parent a reduction in their premium, again, to reward prevention. So we let people keep the coverage they have. They are going to be wealthier and they are going to be healthier.

Finally, one last big challenge for those who have coverage. If individuals want to leave their job or their job leaves them, let's make sure their coverage is portable, that they can take it from place to place to place. I think we understand that this economy is real different than what we had in the 1940s, when somebody went to work somewhere and stayed put for 30 years until they received a gold watch and a big retirement dinner.

The typical people in our States, Western States, now change their job 11 times by the time they are 40 years old, and they need portable health coverage. So let's make sure that coverage is something that fits the modern economy—again, consistent with an approach that let's them keep what they have and puts more money in their pocket and gives them the opportunity to be healthier.

I think that is a vision for bipartisan health reform. It certainly has been largely shared by Chairman BAUCUS and Senator GRASSLEY, and Senator BENNETT and I have talked about it in our efforts as well. But it is going to take somebody with the kind of talent that Bob Dole just described, in the words I have offered today, once again, before the Senate Finance Committee.

There is a reason that after 60 years of debate on health care reform in America that it has not actually gotten done. This is hard work, in terms of building a coalition. I put 6 years of my life into just the most recent effort and have visited with most of the Senate on it. I think there is a clear desire, given the importance to our economy.

The fact is, we cannot fix the economy unless we fix American health care. Most of the experts are saying a lot of these budgets we are dealing with right now, the various bailouts—those bailouts are going to look like a rounding error compared to American health care if we don't get on top of these escalating costs. It has to be done, both in terms of fixing the economy, ensuring quality of life for our people, and because now the country is looking to the Congress to work in a bipartisan way. They have watched a lot of the past squabbles, they have watched a lot of the bickering over issues in the past, and here is an opportunity, as Senator Dole has described, of having a person who wants to work in a bipartisan way around a number of the ideas that I have mentioned this afternoon.

I hope colleagues will support Governor Sebelius. I hope they will reflect on the words of Senator Dole because I think he said it best when he came before us on the Senate Finance Committee. I think there is an opportunity now for the Senate to show a country—and a country that is legitimately skeptical about Washington's ability to tackle big issues—the Senate now has an opportunity to show that on health care, Democrats and Republicans can come together. We are going to come together with individuals, leaders such as Governor Sebelius, who have shown the talent to work in a bipartisan fashion; and I, particularly, having listened to many of our Republican colleagues on the floor today talking about the Sebelius nomination, want to assure them that I agree with much of what they have said with respect to the need to avoid approaches that are partisan and jam one side or another.

In fact, I have devoted much of the last 6 years to making those kinds of approaches irrelevant, to making reconciliation irrelevant.

I think Governor Sebelius will work with us in a constructive way toward exactly that kind of result. Bob Dole has spoken about her ability to do just that before the Finance Committee, and I hope this nomination will now be approved expeditiously and Democrats and Republicans can work together tackling the premier domestic issue of our time: fixing American health care.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, may I inquire, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is the nomination of the Governor of Kansas, Kathleen Sebelius, to be the Secretary of Health and Human Services.

Mr. DODD. I would like to, if I may, spend a few minutes addressing that issue.

I rise in strong support of Governor Sebelius.

Let me thank the people of Kansas. This is a remarkable nominee. I know she has served the people of Kansas well during her tenure as Governor, insurance commissioner, State representative, and we are fortunate indeed that President Obama has asked the Governor of Kansas to come to our Nation's Capital to serve as the Secretary of Health and Human Services.

We owe her a debt of gratitude as well for being willing to accept this responsibility at a time that, with the exception of some 15 years ago, only the second time in more than half a century, this institution and this city will grapple with one of the compelling issues of our day; that is, to deal with a national health care crisis in America. Governor Sebelius has demonstrated a willingness to take on a very large issue which is highly complicated and brings out passionate responses from people across the political spectrum. So we are grateful. I am grateful to her for taking on this challenge. I am appreciative of the President for asking her to do so. I would hope our colleagues would come together.

There is always too much delay in a lot of nominations. I have been a Member of this body for many years. I think I can count on one or two hands the number of times, in more than two decades, that I have opposed nominees of either party. I have always been of the view that Presidents and elections mean things. If you are elected President of the United States, then a President ought to have an opportunity to carry out the mandates or the promises they have made as a candidate.

So those of us who are in the opposition from time to time, other than disagreeing with or deciding to vote against someone because maybe there is some serious problem that underlies that nomination—but I have never felt the views of a nominee ought to necessarily decide my vote in favor of or against them; that Presidents ought to be able to have people they believe will help carry out their wishes and campaign promises; that if we in the opposition try to guarantee that people who share our views are going to be in the Cabinet, that seems to be contrary to the will of the American people who have made a different choice on election day. I know that is disappointing to people from time to time. I know that when I have supported various nominees of President Reagan, President Bush, No. 41, and George Bush, his son, No. 43, voted in support of those nominees, there were those who were disappointed that I would cast a ballot for the nominee. But my answer always was that they were elected—obviously a very controversial election in the case of George W. Bush in 2000, but nonetheless ultimately he was the choice to be our President and as such deserved to be able to have the nominees in his Cabinet, the people he thought would best serve the country. There were occasions when I did vote against some nominees but never on the basis of what their views were. There may have been some other disqualifying factor, but there were very few over the years.

So at this hour, it has been since March 2 that the President nominated Kathleen Sebelius to be the Secretary of Health and Human Services. We are now ending the month of April and

going into the month of May. We have been told as a nation over the last several days that we are now potentially facing a pandemic issue in the swine flu problem. Having a Secretary of Health and Human Services, which is the job that would necessarily coordinate and lead the efforts both at home and working with Secretary of State Clinton and others, coordinate the effort internationally on this matter—it is time to move along.

While I know there are those who have very strongly held views about various matters that will come before the Department of Health and Human Services, elections have consequences. President Obama won the election. This is his choice to lead that agency and to deal with the myriad of other problems we must grapple with as a country. I think it is time for this body to discuss these matters over the appropriate period of time and then to move along and to not delay for as long a time as we have seen already a nomination of this importance.

The HELP Committee, on which I serve—the Health Education, Labor, and Pensions Committee—and the Finance Committee held hearings on Governor Sebelius back at the end of the last month, and the majority leader attempted to get unanimous consent to move her nomination almost a week ago. Those efforts have been blocked by the minority party here. Now we find ourselves in the midst of what appears to be a global crisis, as I mentioned, and for no apparent reason that I can determine, other than maybe some politics, we still do not have the Secretary of Health and Human Services confirmed.

I believe most Americans, regardless of political party, would like to see someone leading this agency and helping us grapple with these issues. I do not think they are going to be pleased, even if they disagree with the politics of the nominee, to have that spot vacant at a time when we need leadership, particularly someone as highly qualified as Governor Sebelius is.

Again, I commend the Obama administration for its handling of the swine flu threat so far. It is clear that the various agencies in Government are working closely and collaboratively. As a result of the Health, Education, Labor, and Pensions Committee and many of my colleagues in the Senate, both Democrats and Republicans, we were able to pass and fund what was called the Pandemic and All-Hazards Preparedness Act and the predecessor bioterrorism legislation. The country as a whole has made great strides in surveillance, coordination, communications, and treatment capabilities.

Let me specifically thank several of our colleagues, because I was deeply involved in those negotiations on that legislation many years ago—well, several years ago. They include Richard Burr of North Carolina, a Republican Member, our colleague, who is deeply involved in the issue; then-Majority Leader Frist of Tennessee was very involved; Senator Ted Kennedy of Massachusetts, and myself are the four, along with Judd Gregg of New Hampshire, involved from time to time in trying to craft that legislation dealing with the Pandemic and All-Hazards Preparedness Act and some of the bioterrorism legislation. My colleagues, on a bipartisan basis, put that together. Richard Burr was very deeply involved in that question, and we ought to thank him for his insistence so many years ago. So we have been involved in these issues on a bipartisan basis, and I would hope, again, this nomination can go forward on a similar basis.

The U.S. response to this current global threat is evidence that those efforts taken some years ago are paying off. But the lead agency in all of this, and other possible health threats, is the Health and Human Services Department. That Department lacks a leader today, and that is the reason we are still here a week later debating whether this nominee of incredibly impeccable credentials is being held up for as long as she is.

Having served on the so-called HELP Committee for many years, I cannot recall another time when the challenges facing the Secretary of Health and Human Services were so complex. I have already addressed some of those issues. Our economy is in the worst shape it has been in for decades. We have a health care system that is broken, impacting families, businesses, and our competitiveness as a nation.

The Department of Health and Human Services and the agencies within its purview are in need of attention and leadership. It is critical that the Department once again base its decisions on the best available science, not the political ideology of the moment. President Obama has already made tremendous progress in this respect with the signing of an Executive order overturning the previous administration's harmful restrictions on embryonic stem cell research and the signing of a Presidential memorandum on scientific integrity. I commend him for it.

He has moved quickly to appoint highly qualified candidates such as Governor Sebelius to key positions within the Department, such as the FDA Commissioner and the head of the Health Resources and Services Administration.

Governor Sebelius brings a wealth of experience I have referenced already, working in a bipartisan fashion to improve the lives of families in her State. The outpouring of support, on a bipartisan basis, ought to be welcome and celebrated. Rarely do you see someone bring that much support across the political spectrum that Governor Sebelius has to this, the nomination to head this Department.

The knowledge and expertise she gained as Governor, the insurance commissioner of her State, and the State representative will be instrumental in achieving comprehensive health care reform—reform that at long last will bring affordable quality health care, we hope, to all Americans.

The case for reform of our health care system has never been stronger or more urgent, and I happen to be one who is optimistic about the prospects of achieving health care reform this year under the leadership of MAX BAUCUS, the chairman of the Finance Committee; Senator TED KENNEDY, the chairman of the HELP Committee; and the respective leadership on the House side along with, obviously, President Obama; the participation of other people—our colleagues, such as ORRIN HATCH, MIKE ENZI of Wyoming, certainly CHUCK GRASSLEY, the Republican former chairman of the Finance Committee, now the Republican ranking member, and many others with whom we have had extensive meetings already trying to achieve what our majority leader has called for, and that is a strong, bipartisan effort here to put together a national health reform package. So a lot of good people are already buying in, trying to achieve that result. What we have been missing in all of this is the head of the Health and Human Services Department, to help pull that piece of the puzzle together for us as well.

We are in such a different place than we were 15 years ago on this issue. Then we had a host of opposition lined up. Today, those who organized to torpedo those efforts 15 years ago, frankly, are at the table today anxious for us to share and put together a proposal that would enjoy that kind of support I mentioned a moment ago.

The economics of our country are certainly in a much different place than they were in 1993 and 1994. Today, health care accounts for over 16 percent of the gross domestic product of our country—health care costs. According to the Office of Management and Budget, by the year 2018—not that far away—national health spending, if unabated, could account for a fifth, more than 20 percent of our gross domestic product. There are those who believe that within 10 years that figure of 16 percent could double to more than 30 percent of our gross domestic product. That is unacceptable.

If you are not motivated by the morality and ethics of having 45 million Americans without any health care, of which 9 million in that number are children, today we rank among the lowest scores or the worst scores of infant mortality among industrialized nations. There are 100,000 people a year who die in this country from avoidable medical errors. Those are not the kinds of statistics we want to associate with our great country. So, in addition to the moral, the health care issues, the ethical questions, the economics of this issue demand attention.

If you are not impressed by any other motivation on why we ought to achieve universal, quality, affordable health care, founded on the notion of prevention, then the economic justification

ought to persuade you. The health care system we have today puts personal finances at risk, threatens our global competitiveness. General Motors, to give you one example, estimates that health care costs add over $1,500 to the selling price of each automobile it produces, and it paid $5.2 billion in health benefits in 2004. That is more than it paid for steel. That will give you an idea why that company is facing as much pressure as it is, as well as other automobile manufacturers.

Look at the foreclosure issue. There are 10,000 people today who will be at risk of losing their homes. That is true every day in our country in the midst of this major economic crisis. There are 20,000 people a day, on average, who are losing their jobs in the United States. So when you are losing your job, you may lose your home and retirement. Remember this: Almost half of all of those foreclosures that will occur today are partly caused by the financial crisis stemming from medical costs. I will repeat that. Almost half—50 percent of those 10,000 foreclosures that will occur today are partly caused by the financial crisis stemming from health care costs.

As chairman of the Banking Committee and a 26-year veteran on the HELP Committee, I share the President's belief that fixing the health care crisis is essential to fixing our economy.

We can talk about all the other issues dealing with availability of credit and what is happening to banks and to the financial stability of the Nation, but we cannot have a conversation about all that and disregard the issue of health care. Twenty-eight million Americans who work for small businesses are without health care. Premiums on average are 18 percent higher than they were a few years ago. In Connecticut, premium costs have gone up 42 percent in 8 years. Imagine what that has done at a time when wages and salaries have not increased anything remotely close to that. Premiums and out-of-pocket costs for health care and individuals continue to skyrocket.

Chairmen KENNEDY and BAUCUS of the respective HELP and Finance Committees are working closely together on this process, trying to fashion a timeline and policy that will fit together. Both chairmen have stated a shared goal of marking up health care legislation in early June. I strongly believe that timetable is achievable. But we need to have a Secretary of Health and Human Services, if we are going to mark up a bill in June. We have had this nomination pending for more than a month, have spent a week debating it, and we are in the month of May. Most Americans want the petty politics put aside and the people in place we need to lead this effort. They care about health care. They understand what happens: When one loses their job, they lose their health care.

Last year one in three Americans, between 2007 and 2008, had a gap where they had no health care for one reason or another. Lord forbid someone is in that gap and something happens to them or their spouse or a child and they end up having to pay out-of-pocket expenses for the care of that individual. That is a fear everyone has who faces that possibility or is in that situation today.

I say this respectfully. It is time to get the people in place who can help us get this job done. Delaying this nomination because you don't agree with everything that Kathleen Sebelius says or supports is not justification for denying this administration and, more importantly, the American people a leader at the Department of HHS to move forward.

I wish to say a quick word about the comparative effectiveness research which has been mentioned as a reason for holding up the nomination. This effort is about expanding Americans' access to health care, not restricting it. We also want to give patients and their doctors the tools they need to make the right decisions about care. That is what comparative effectiveness research is all about, empowering patients and medical providers. It is not about rationing care. Comparative effectiveness research is about helping patients and providers figure out together which therapies and treatments work best for them. It is not about restricting or limiting health care options but, rather, about helping them understand their health care better and more accurately chart a course of treatment. The President has made such research a high priority by having invested in it through the recovery act's $10 billion for the National Institutes of Health and $1.1 billion for comparative effectiveness research.

I support the President and Governor Sebelius in this effort to inform patients and providers. This is the moment for health care reform. Failure is not an option for our Nation. I look forward to working with Governor Sebelius to make meaningful, lasting change to our Nation's health care system.

While health care reform is a top priority, I also wish to address quickly another vitally important issue to the responsibility of the department; that is, early childhood education and development. This is an issue that has long been near and dear to my heart, since 1981, when I started the children's caucus in the Senate almost 30 years ago with ARLEN SPECTER of Pennsylvania, who was a new Senator as well that year, along with people such as Patrick Moynihan, Bob Dole, and Bill Bradley. Each brought a deepening interest in what was happening to one out of four Americans who are children. As a result of our efforts over the years, we have made a difference.

I am encouraged by the commitment of President Obama to early childhood education. I look forward to working on new proposals as well as strengthening current programs such as Head Start and the CCDBG for childcare to benefit children and families. An investment in our youngest Americans pays off in their readiness for school, their health, and job creation now and in the future and the need for fewer social services later in the child's life.

Now is the time to put partisan politics aside, confirm Governor Sebelius so we can have the kind of leader most Americans are looking for and provide the guidance the Department of Health and Human Services will need if we are going to succeed in this effort.

I urge confirmation of this remarkable individual who has offered her services to the country, who is making the kind of sacrifice to come forward and serve our Nation at a critical moment. That is to be celebrated. That is patriotism. I hope my colleagues will quickly confirm this nominee and allow us to begin the critical work of fashioning a national health care reform package.

I yield the floor and suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MCCASKILL. Mr. President, I rise this afternoon in support of an incredibly gifted public servant. I don't normally stand up and sing the praises of Kansas. I am not a huge fan of Kansas. I am a Missourian, and we have issues between Kansas and Missouri—usually between our basketball teams and our football teams.

During the last decade, I have had an opportunity to get to know Kathleen Sebelius as a person, as a mother, as a wife, as a Governor, and as a friend. I want my colleagues to know that they are voting to confirm an extraordinary individual who will do an excellent job as Secretary of Health and Human Services in the United States.

Kathleen Sebelius has shown courage and guts many times in her career. Frankly, running for Kansas's Governor as a Democrat shows guts and courage. We are talking about a State that is not warm and fuzzy about Democrats. We are talking about a State that is as red as Dorothy's ruby slippers. But she ran for Governor after she had served as commissioner of insurance in Kansas. So why was it that all these Republicans got excited about voting for Kathleen Sebelius? It was because she demonstrated, when she was commissioner of insurance in Kansas, that she was about fighting for them. It happened over an insurance company. Everyone needs to realize this is an experience she has had that relates directly to what we need right now as Secretary of Health and Human Services as we embark upon the most aggressive and ambitious health care

reform agenda this country has ever faced.

When the largest health insurance company in Kansas wanted to sell—this was a mutual company owned by the policyholders of Kansas and covered 70 percent of Kansans—all Kathleen Sebelius, the insurance commissioner, had to do under the law was sign off on it and say no harm would be done. But she took a look at it and said, wait a minute, I don't think the test should be that no harm is going to be done. I want to know what this sale is going to do to make things better for Kansans. She took on a titan—a big, huge insurance company. That is what we need right now, someone willing to take on the calcified silos of profit in our health care system and blow them up in order to deliver a better product. She said: I want to make sure this sale is going to reflect a better environment for health insurance for the people of Kansas.

She fought them all the way to the Supreme Court of Kansas and eventually she won and was able to block the sale of this company. She said at the time that bigger is not always better, and unless they could show how this was going to be better for the people of Kansas, she would continue to fight them toe to toe. It was that kind of fighting spirit on behalf of regular people who don't have the tools to fight big insurance companies that uniquely qualifies her to be at the head of this important agency as we embark on the health care reform agenda.

Not only did she have the guts to run for Governor—she won, which was remarkable. Here is an even more remarkable part. She went to Topeka, the capital, and began working with the Republicans. As President Obama has said over and over again, she said: I want to work with you. And she did. She wrestled with a senate and a house that was dominated by the Republican party in Kansas and, at the end of 4 years, what did the people of Kansas do? Did they say they were sick of the gridlock and didn't want this liberal Kansas woman anymore from the Democratic party as Governor? Oh, no, they did not; they reelected her by a wide margin.

It is a remarkable thing, when you think about it, because this is a State that our former President won by 20, 30 points. Yet the people of Kansas realized they had a fighter. They looked past the party label to her courage, integrity, intelligence, and her willingness to go toe to toe with the big guys for them. I am proud she has been nominated. I know there have been some distortions about her record. I can assure my colleagues that she will make us all proud in this job. She will work with every one of us to try to find that common ground. She will leave no opinion behind as they consider the best way to move forward on this health care reform agenda.

I am pleased to be able to stand for a few minutes and tell everyone in America to celebrate today, because we are about to confirm a fighter—someone who will fight for you and deliver the kind of health care in America that we deserve, at a price we can afford.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I wish to speak for up to 10 minutes, maybe slightly longer, about the nomination of Gov. Kathleen Sebelius to be the Secretary of the Department of Health and Human Services. I wish to speak on behalf of the Governor because I think she is such an outstanding candidate for this particular job.

As I look across the country, as many of my colleagues, and think who could fill this position, I have to say I was very pleased with the President's action to tap her for this important position because right now this Secretary is going to be charged with fulfilling the President's idea that all Americans should have health coverage. This is an idea that other Presidents have shared and about which many leaders in Congress, both Republicans and Democrats, have thought. It would be remarkable and wonderful for our country, the extraordinarily developed Nation that we are, to find a way—a cost-effective way, in my view; hopefully, a market-based approach—to solving one of the great challenges of our time, which is to provide health insurance, good coverage, for workers in the most productive Nation on Earth.

It really is a failing, in my view, of our organized society and our Government that we have not in over 240 years been able to accomplish that. We have accomplished so many things that are a credit to our country, but this has eluded us.

When President Obama ran in his campaign, and as I heard him speak even here and in the House Chamber for a joint session, he again expressed his passion for trying to find a solution. One of the first steps to finding a solution is finding a leader who has a good record of finding solutions on their own, a good record of working across party lines to get difficult jobs done. So in his action to achieve this goal, he has made a great first step to at least present to the Senate for our consideration a person who does not have a weak record but a strong record in this effort.

I submit that as a Democratic Governor of Kansas, you have to be pretty good as a Democrat, first of all, to get elected in Kansas because, like Louisiana, it tends to be a more conservative State on some issues. Obviously, I think this Governor has demonstrated over and over, as insurance commissioner and as Governor of Kansas, the ability to get the job done. She was tapped before she was Governor by a Governor of Kansas to help actually implement and lead the children's health program. Her record is clear in the success of this program.

She, as insurance commissioner, had a great deal of interaction with health insurers in that State and others that indicates to us she has the experience and the ability to do this. Working with the Federal Government during her time as Governor on all of these health care matters leads me to the conclusion that she is the right person to help us get this job done. The sooner we confirm her the better.

I was very impressed to hear—I do not serve on this committee—that at her hearing, Senator ROBERTS, our colleague who is of the other party, spoke in her favor and voted for her. Even more impressive to me was that former Senator Bob Dole testified for her.

This is not at all a typical partisan appointment. This is a person who has demonstrated through her leadership for many years in the State of Kansas the ability to tackle the toughest jobs and bring people from various viewpoints together. That is the kind of leadership I think America is looking for right now.

I might add that in the most recent days, the outbreak of the swine flu in our country should compel the Members of this body to know this is not a job that should have a vacancy sign on the door right now. There could potentially be a pandemic. The Government is hoping for the best but preparing for the worst. While Secretary Napalitano has been charged with the task to coordinate Federal agencies, frankly I do not feel very comfortable having this job vacant. The faster we can get her in this position with her extraordinary credentials the better.

I would like to make a few other points. As the chair of the Small Business Committee, I have to say again for the record—and I think Senator SNOWE from Maine, my ranking member and long-serving member of this committee, would say the same thing if she were here—that no matter what we call a meeting on in the Small Business Committee—it could be on procurement, it could be a hearing on credit markets, it could be a hearing, which we have had, on the Small Business Administration itself, as I am standing here, every small business person, almost to the man or woman, will say: Senators, before I leave, or, Senators, I know this isn't the subject of this hearing, but could I please say I can't afford my health insurance; can I please say that it is very important for this country to find a way for small business entrepreneurs to get health insurance.

Just for the record, for small businesses that employ the vast majority of people in this country, the percentage of coverage has dropped in the last

7 years from 68 percent of those businesses providing coverage down to 59 percent. I know in my personal experience dozens of people who would say: You know, Mary, I would like to start a business. I think I have a good idea, and actually I have some money to start it, but I can't give up my health insurance because I have a preexisting condition or I have a son with leukemia or I have a daughter who has a compromised immune system.

I cannot tell you how strongly I feel that our country is actually not only throwing cold water but almost freezing water on the entrepreneurial spirit because we can't seem to figure out how to provide health insurance—and not just for big companies but for medium companies and for emerging companies—and to have that coverage be portable and available when people want to leave a company and take a risk. They might risk their business, but they are not going to risk their life. That is a little too much risk to ask in order to start a business. You may risk your home, you may risk your fortune, but to ask people to risk their life is a little ridiculous. Yet that is where we are. So the faster we can get someone in this position who can help put their shoulder to the wheel and help our small businesses come up with a way, the better off we will be.

Finally, I wish to mention two issues briefly. We concentrate a lot in this department on health care and that, of course, is the President's priority and it is our priority, but I don't want to fail to mention that I believe this Governor would be an extraordinary advocate for foster care children. There are 500,000 of these children, many of them with 4.0 grade point averages, amazingly. Many of them are the most extraordinary children. I have gotten to meet many of these young people as chairman of the Adoption Caucus and an advocate for foster care. This is despite the fact that some of them have spent several years of their youth living in an automobile.

One of these children said to me one day that she got so hungry she would just eat paper. The only thing that made it edible was that she would pour salt on it, just to try to put something in her stomach. These 500,000 children and young people need someone such as Governor Sebelius because these are people in the custody of the Government. The U.S. Government, along with partners in our 50 States, have an obligation to these children for their health, for their education, and to try to help them launch successfully in life. Once we have terminated their parental rights—in many instances for good cause—we then have an obligation to be their parents and to reconnect them through adoption, if possible, or to long-term guardianship. We need somebody in this position who can do that.

I know of Governor Sebelius's heart for foster care, for orphans, and for adoption. I think she will be a wonderful advocate to keep our adoption tax credit in place and to help Senator GRASSLEY and I—we have been working on this with many other Members—find a way to reform the financing mechanism and the way we fund our foster care adoption system in this country, which right now funds the system and not the child. We want the money to support the decision of that good, solid judge who has a plan for the child. The problem is there is no money for the child because we are giving the money to the system instead of tying the money to the child. Senator GRASSLEY and I have a vision to make that better.

I hope we can confirm Governor Sebelius, knowing she has a proven record of governing her State, which is not easy for a Democrat, and remained very popular. That takes a great deal of effort in this day and age, given the partisan nature of our politics. We need to have a ''position filled'' sign as opposed to a ''vacancy'' sign in this position, and we need somebody who understands the commonsense practical approach to governing that is going to deliver for this President and for us—for the American people—a health care system we can depend on, that we can afford, and that promotes risk-taking and entrepreneurship, which is the founding principle, in many ways, of this wonderful country.

I thank the Presiding Officer for the opportunity to speak on behalf of the Governor, and I urge my colleagues to not wait any longer and to confirm this nominee and give her the support she needs. Do not apply any litmus test on any particular issue, but give her the chance I think she wants to have—I am confident she wants to have—to do a good job for us all.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CORNYN. I ask unanimous consent to speak up to 15 minutes on the pending nomination.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CORNYN. Mr. President, Governor Sebelius, who has been nominated to be Secretary of Health and Human Services, testified before the Senate Finance Committee that she would not refuse to use certain comparative effectiveness research as a tool to deny or delay American citizens' access to health care. Said another way, a concern about comparative effectiveness research, $1.1 billion of which was funded in the stimulus program, can be used both for benign purposes, purposes that are completely understandable, as well as those most Americans would find repugnant; that is, for rationing of access to health care.

Comparative effectiveness research is the comparison of various treatments or approaches to garner better data on what works best and/or what costs the least. Comparative effectiveness research can be helpful and beneficial if it is used to inform health care decisions and individual health care decisionmaking and as a guide to evidence-based medicine. Without appropriate safeguards—and these were the safeguards Governor Sebelius refused to embrace—the Government could actually use comparative effectiveness research to delay treatment and to deny care based on a one-size-fits-all approach to health care.

The economic stimulus package included $1.1 billion for comparative effectiveness research. This research should only be used to better inform individualized decisionmaking; that is, a patient talking to their doctor and deciding what is in that patient's best interests. It should not be used for the Government to say: Patient, we will not pay your doctor for that procedure unless it meets our cookbook medicine model that is generated by comparative effectiveness research. Despite assurances that the stimulus money would not be used to evaluate the relative cost effectiveness of various medical treatments, the National Institutes of Health is already undertaking steps to use the stimulus money to conduct that kind of cost-based research.

As I indicated, Governor Sebelius was asked before the Finance Committee how she plans to use comparative effectiveness research. As Secretary of HHS, she will be in the driver's seat in large part to determine how the policies of this administration and of this Congress will be implemented. My colleague Senator KYL from Arizona expressed his concern before the Finance Committee vote in these words, with which I agree:

> Unfortunately, Governor Sebelius' answers made it clear that the Administration is unwilling to support pro-patient safeguards. She left me with no assurance that HHS, federal health care programs, or any new entity—such as the Federal Coordinating Council—will not use comparative effectiveness research as a tool to deny care. And this should be of concern to all of us.

Instead of allowing the Federal Government to intrude further into personal decisionmaking and medical care, I believe that health care reform should enhance the individual relationships between doctors and their patients. I am concerned that using comparative effectiveness research to justify treatment denials based on cost will significantly limit patients' ability to choose health care services for individual needs. It will also reduce—and this is important—medical innovation and quality of care.

When asked, Governor Sebelius did not have any convincing answers to what is one of the most important questions in the health care debate,

and that is, how do we contain rising health care costs, something that is going to render the Medicare Program insolvent in the next decade? As any employer will tell us, it makes it increasingly more difficult for employers to provide health care to their employees.

According to the Congressional Budget Office, spending on health care will account for nearly 17 percent of the gross domestic product of the United States. In 2009, that will be as much as $2.6 trillion. America spends more than twice what other industrialized nations spend per capita on health care. Can we claim our health care product is twice as good as anywhere else in the world based on this increased spending? I doubt it, even though American health care is very good. But I don't think we could say we get our money's worth by spending twice as much as any other industrialized nation per capita on health care. Health care insurance premiums have risen much faster than workers' wages in recent years which means lower take-home pay for American workers. Health care reforms must ensure that this trend is reversed or we will have failed in one of the most important missions of health care reform.

In the Finance Committee, I asked Governor Sebelius her specific ideas, other than delaying treatment and denying care, on how to contain costs. In my office I asked her, what about health care liability reform which, in my State of Texas, has made health care much more accessible by moderating the growth of medical malpractice insurance premiums, providing a more level playing field when it comes to doctors and hospitals being sued. She basically did not have much of an answer for whether that should be included. I happen to believe it is one of the cost drivers in health care cost and has to be addressed. I submit, with no little modesty, that the State of Texas has experience in this regard that the Federal Government could learn from. While I don't doubt some of the cost containment proposals in her answers could be worthy of pursuing, Governor Sebelius failed to prove that they will provide substantial savings in a $2.4 trillion health care system. The Congressional Budget Office is also skeptical that the proposals she mentioned will result in any substantial savings.

Finally—and this should cause all of us to be concerned about whether there actually will be cost containment or cost savings in health care reform—I am puzzled by the fact that President Obama's budget actually asks for more money, $634 billion. That is not the total price; that is for a downpayment. In my State, as well as the State of the Presiding Officer, before people are accustomed to making a downpayment, they usually want to know what they are buying. But the budget proposal by the President called for $634 billion of additional spending as a downpayment in order to control costs in the long run, which is based on nothing more than hope, and that is hardly a strategy.

We know we are already facing an unprecedented level of national debt. Unfortunately, Congress, under the new administration, has contributed greatly to the fact that we have seen more spending in the last 90 days than we have seen in Iraq, Afghanistan, and in Hurricane Katrina recovery. We know we have $36 trillion more in unfunded liabilities in the Medicare Program alone. So at a time when we need to figure out how we deal with unfunded obligations of the Federal Government, how do we more efficiently spend the 17 percent of gross domestic product that makes us spend twice as much as any other country in the world per capita, we are ignoring some of the huge unfunded liabilities of the Federal Government, and we are asked to take as a matter of faith that these proposals will result in savings without any concrete plan which can be analyzed and evaluated in the light of day.

I firmly believe this country is spending enough money on health care today. What we need are innovative ideas about how to spend it more wisely. I have not heard any innovative ideas from Governor Sebelius or the current administration.

What causes me even more concern is Governor Sebelius has made it clear that she supports a new government-run ''public plan'' for health care that is unequivocally a gateway to a single payer system. A new government-run public plan option will devastate private insurance markets by acting as a competitor, regulator, and funder. How in the world can the private market compete when the Federal Government comes in and sets prices which will cause employers to give up their employer-provided health insurance coverage to allow their employees to get coverage under the public plan? Indeed, the public plan, much like Medicare today, can be relied upon to use denial or delay or treatment rationing of health care in order to contain costs.

The independent Lewin Group analysis found that a new public plan could mean that 118 million Americans will lose their current health care coverage, and 130 million Americans could end up on a government-run health care plan. That is what I mean as a ''gateway'' to a single payer system through this so-called innocuous sounding public plan which will run competition out, will undercut it, and make it impossible to have the benefits of a competitive market, as we have seen on Medicare Part D, the prescription drug coverage plan, which actually, in an amazing feat, has a high public satisfaction and came in under proposed cost, mainly through a market-based mechanism that creates a market for insurance companies to provide prescription drug coverage. That is the kind of model we should be looking at to learn from in order to contain cost, not by Government delaying or denying access to health care under the guise of a ''public plan.''

The Wall Street Journal recently wrote:

> Because federal officials will run not only the new plan but also the ''market'' in which it ''competes'' with private programs—like playing both umpire and one of the teams on the field—they will crowd out private alternatives and gradually assume a health-care monopoly.

A public plan will also increase the cost of private health care. A report by the actuary Milliman estimated the ''hidden tax'' commercial payers pay to subsidize the costs of Medicare and Medicaid equals roughly $88.8 billion per year. This means that the average health care premium is $1,512, or 10.6 percent, more annually per family than it would be without the cost shift. A new so-called public plan option, which is a government-run program, would exacerbate the cost shift and drive up the cost of private health care at a time when we must seek to lower health care costs.

Then there is the Washington Post that wrote on April 27:

> [President Obama's] nominee for secretary of health and human services, Kathleen Sebelius, said that she wants a public plan to ''challenge private insurers to compete on cost and quality'' but ''recognizes the importance of a level playing field between plans and ensuring that private insurance plans are not disadvantaged.''

The Washington Post said:

> We disagree. It is difficult to imagine a truly level playing field that would simultaneously produce benefits from a government-run system.

I ask unanimous consent that this editorial from the Washington Post be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. CORNYN. Throughout the campaign last year, the President promised Americans care such as Members of Congress receive. The irony is that Members of Congress do not have access to a public plan. As a matter of fact, we don't need one because there are private plans that provide the coverage we receive.

I am concerned that Governor Sebelius is not up to the challenge of finding—and this is my final point—more than $90 billion of waste, fraud, and abuse in the Medicare-Medicaid Program each year.

There are some who have said that what we need is Medicare for all. Well, right now Medicare, as I indicated, and Medicaid have roughly $90 billion in fraud, abuse, and waste. I hope that is not what they mean—that we need to carry over that kind of waste, fraud, and abuse into a Medicare or a single-payer system. According to an article in the Washington Post last year, more than $60 billion is lost each year to Medicare fraud alone. That is just Medicare—$60 billion of money that could go to provide services to Medicare recipients that is lost to people

who cheat and steal the Federal taxpayer. Medicaid services last year were estimated to be about $32.7 billion similarly lost to fraud, waste, and abuse. Medicare and Medicaid fraud drive up the cost of health care and, I believe, represent an unacceptable mismanagement of taxpayer dollars.

When I asked Governor Sebelius about how she planned to fight fraud in our public programs, she only gave the vaguest of answers to my questions. Additionally, her record as Governor tells me that she is not yet ready to tackle that kind of fraud, waste, and abuse as Secretary of Health and Human Services.

The Kansas State Legislature is planning to have hearings on whether Governor Sebelius was involved in a decision to provide more than $700,000 in ''extraordinary'' Medicaid funds to an organization linked to a number of her supporters. An article by the Kansas Health Institute said that:

Regardless of the Medicaid question, which isn't likely to be answered any time soon, many believe [the Medicaid Director's] decision was based on the political connections of those most closely involved.

The article goes on to say:

Some Kansas officials are debating whether State oversight of [Kansas'] Medicaid program was strong enough. The debate focuses on the inspector general's office, created in 2007 within the Kansas Health Policy Authority to ferret out potential problems in Medicaid. The first inspector general left in October and has told legislators the authority hindered her work . . . The scrutiny came after a legislative audit described $13 million in ''suspicious claims'' paid by Medicaid in 2005 and 2006, before the authority took over the bulk of the program. In one case, auditors said the program paid a doctor $941 for a Cesarean section when the patient was an 8-year-old boy.

Republicans and, indeed, all of us, I believe, want a new HHS Secretary to be someone committed to work with them to reform the health care system in a bipartisan process that will reach the best result for the American public. Unfortunately, with a sense of foreboding, I read accounts that Democratic leadership wants to use the budget reconciliation process to jam a partisan health care reform bill through on an expedited basis without adequate debate or deliberation. I think that would be the worst of all possible outcomes. This is a serious enough issue that we need true bipartisan buy-in and contribution to workable health care reform.

Unfortunately, Governor Sebelius backed a highly partisan process for health care reform that excludes representatives of 50 percent of the American people: the use of budget reconciliation that I mentioned. Governor Sebelius refused to say that she would not support the use of reconciliation to pass health care reform. In her response to committee questions, she wrote:

There are many tools available and none of those tools, including reconciliation, should be taken off the table.

I am very concerned that using a partisan procedural trick to reform a system that comprises 17 percent of our gross domestic product is not in the best interests of the American people. The American people deserve open and full and honest debate about how to improve our health care system, not this kind of partisanship.

Then, finally—and this is my final point—Governor Sebelius failed to disclose relevant information to the Finance Committee during the consideration of her nomination. Not only was there the matter of her tax returns—something that, unfortunately, has become a trend, it seems, in this administration's nominees—she also failed to disclose contributions from a controversial abortion provider until pressed by the media.

The Associated Press wrote that:

When the discrepancy became public Sebelius acknowledged getting an additional $23,000 from Tiller and his abortion clinic beyond the $12,450 she initially reported.

While I appreciate her apology and her mention that it was only an inadvertent error, I am concerned that a Cabinet Secretary should be held to a much higher and more transparent standard.

So I am sad to say I will not be able to support Governor Sebelius's nomination for Secretary of Health and Human Services.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Apr. 27, 2009]

REFORMING HEALTH CARE

Of the many possible issues that could snarl health-care reform, one of the biggest is whether the measure should include a government-run health plan to compete with private insurers. The public plan has become an unfortunate litmus test for both sides. The opposition to a public plan option is understandable; conservatives, health insurers, health-care providers and others see it as a slippery step down the slope to a single-payer system because, they contend, the government's built-in advantages will allow it to unfairly squash competitors.

For liberals, labor unions and others pushing to make health care available to all Americans, however, the fixation on a public plan is bizarre and counterproductive. Their position elevates the public plan way out of proportion to its importance in fixing health care. It is entirely possible to imagine effective health-care reform—changes that would expand coverage and help control costs—without a public option.

President Obama has said that he favors a public option but has been sketchy on details. His nominee for secretary of health and human services, Kathleen Sebelius, said that she wants a public plan to ''challenge private insurers to compete on cost and quality'' but ''recognizes the importance of a level playing field between plans and ensuring that private insurance plans are not disadvantaged.''

The argument for a public plan is that, without the need to extensively market itself or make a profit, it would do a better job of providing good health care at a reasonable cost, setting an important benchmark against which private insurers would be forced to compete. Even in a system where insurers are required to take all applicants, public plan advocates argue, incentives will remain for private plans to discourage the less healthy from signing up; a public plan is a necessary backstop. Moreover, if the playing field is level, public plan advocates argue, private insurers—and those who extol the virtues of a competitive marketplace—should have nothing to fear.

We disagree. It is difficult to imagine a truly level playing field that would simultaneously produce benefits from a government-run system. While prescription drugs are not a perfect comparison, the experience of competing plans in the Medicare prescription drug arena suggests that a government-run option is not essential to energize a competitive system that has turned out to cost less than expected. Insurers and private companies have been at least as innovative as the federal government in recent years in finding ways to provide quality care at lower costs. Medicare keeps costs under control in part because of its 800-pound-gorilla capacity to dictate prices—in effect, to force the private sector to subsidize it. Such power, if exercised in a public health option, eventually would produce a single-payer system; if that's where the country wants to go, it should do so explicitly, not by default. If the chief advantage of a public option is to set a benchmark for private competitors, that could be achieved in other ways, for example, by providing for the entry of a public plan in case the private marketplace did not perform as expected.

Maybe we're wrong. Maybe it's possible to design a public option that aids consumers without undermining competition. If so, we certainly wouldn't oppose a program that included a public component. But it would be a huge mistake for the left to torpedo reform over this question.

Mr. REID. Mr. President, the hole we have inherited is a deep one. We are all in it together, and together is the only way we will be able to climb out of it.

One step that will put us back on the path to prosperity is reforming our broken health care system.

We will soon begin debating the best way to give all Americans the access to quality, affordable health care that they deserve. We will begin to lay the groundwork for creating health care jobs that not will not only improve the health of our economy but of Americans everywhere.

It will not be an easy task. It will take the cooperation of both Republicans and Democrats. It will take the collaboration of both the White House and the Congress. But right now, the President is playing shorthanded.

Governor Sebelius will be a key player on his team. President Obama will benefit from having her experience and temperament in his Cabinet, and all Americans will benefit from her extraordinary leadership.

Governor Sebelius has worked hard for the people of Kansas for more than 20 years—the first 8 in the State legislature, then as the State's insurance commissioner for another 8 years. It is safe to say she knows a thing or two about the complexities of insuring all Americans and the urgency with which we must do so.

On her way to becoming insurance commissioner, Kathleen Sebelius refused to take campaign contributions from insurance companies. Once she got there, she made her mark by cracking down on HMOs and saving taxpayers money.

For the last 6 years, she has served as the Democratic Governor of a bright red State. One doesn't succeed—let alone get reelected—in that environment without knowing how to put people ahead of partisanship. Governor Sebelius did just that—she expanded health care for children and made both health care and prescription drugs more affordable for everyone.

Her integrity is beyond reproach, her expertise is essential, and her confirmation is long overdue.

The only way for our economy to fully recover is by making the critical investment of reforming health care. The stakes are too high and the cost of inaction is too great.

If we are going to start digging out of this hole, we must start by filling the hole over at HHS. And if we are going to fix our broken health care system, who is better equipped to lead that effort than Kathleen Sebelius?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The nomination of Kathleen Sebelius.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that any remaining debate time be yielded back and the Senate then proceed to vote on confirmation of the nomination of Kathleen Sebelius to be Secretary of Health and Human Services; that upon confirmation, the other provisions of the April 23 order remain in effect.

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

Mr. BINGAMAN. 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 question is, Will the Senate advise and consent to the nomination of Kathleen Sebelius, of Kansas, to be Secretary of Health and Human Services?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 65, nays 31, as follows:

[Rollcall Vote No. 172 Ex.]

YEAS—65

Akaka	Bingaman	Burris
Baucus	Bond	Byrd
Bayh	Boxer	Cantwell
Begich	Brown	Cardin
Bennet	Brownback	Carper
Casey	Kohl	Reid
Collins	Landrieu	Roberts
Conrad	Lautenberg	Sanders
Dodd	Leahy	Schumer
Dorgan	Levin	Shaheen
Durbin	Lieberman	Snowe
Feingold	Lincoln	Specter
Feinstein	Lugar	Stabenow
Gillibrand	McCaskill	Tester
Gregg	Menendez	Udall (CO)
Hagan	Merkley	Udall (NM)
Harkin	Mikulski	Voinovich
Inouye	Murray	Warner
Johnson	Nelson (NE)	Webb
Kaufman	Nelson (FL)	Whitehouse
Kerry	Pryor	Wyden
Klobuchar	Reed	

NAYS—31

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bunning	Graham	Murkowski
Burr	Grassley	Risch
Chambliss	Hatch	Shelby
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Corker	Isakson	Wicker
Cornyn	Johanns	
Crapo	Kyl	

NOT VOTING—3

Kennedy	Rockefeller	Sessions

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 31. Under the previous order requiring 60 votes, the nomination is confirmed. The motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak for up to 10 minutes each.

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

The Senator from Pennsylvania.

FOCUS ON AFGHANISTAN AND PAKISTAN

Mr. CASEY. Madam President, I rise to convey this afternoon some brief remarks on the new strategy of the United States for Afghanistan and Pakistan announced by President Obama last month. I applaud his statement, and I applaud the sharpening of focus this new administration has brought to our mission in this critical region of the world. For too long, our policy in both Afghanistan and Pakistan has drifted—overly reliant on support for individual leaders, excessively ambitious in our goals for the region, and, finally, lacking any constraints or accountability for the billions of tax dollars of the United States spent in both countries.

President Obama made clear during the campaign last year that we could no longer pair grandiose rhetoric with paltry resources when it comes to U.S. policy toward those two nations.

Accordingly, in one of his first national security decisions, he established a 60-day comprehensive review of our entire policy. He asked the respected Bruce Riedel to take leave from the Brookings Institution and oversee this review.

The policy review is now complete. With the full support of Admiral Mullen and General Petraeus, the President is dispatching an additional 4,000 troops to train and advise the Afghan Army as it grows in size and scope to shoulder the burden of securing Afghanistan on its own.

The President is dramatically increasing our civilian presence in Afghanistan, recognizing that we cannot win this conflict on military terms alone but must provide a robust development and diplomatic capability to complement our brave fighting men and women.

Finally, the Obama administration recognizes we cannot separate Afghanistan and Pakistan, to pretend as if they were two separate challenges. Nothing could be further from the truth.

Following the successful offensive of the United States in Afghanistan in 2001 and 2002, hard-line Taliban and al-Qaida elements successfully relocated to western Pakistan. From there, they have created a sanctuary to attack troops of the United States, to destabilize eastern and southern Afghanistan, and to launch attacks on Pakistani military units and civilian installations.

Moreover, these radical elements are beginning to move westward within Pakistan, threatening the stability of the Pakistani state. I am extremely concerned by the speed with which the Taliban is gaining ground, especially in the areas close to Islamabad, the capital. I know the administration is working with our partners in Pakistan to prevent the situation from deteriorating even further. We must continue to work with the Government of Pakistan to prevent these radical groups from destabilizing the Pakistani State and the region. As we all know, Pakistan has a nuclear arsenal which would pose a grave threat should it fall under the control of extremists.

The recent gains of the Taliban show how interrelated the threats in Pakistan and Afghanistan are. The threat in Afghanistan feeds off the threat in Pakistan and vice versa. We must treat this for what it is: one theater that requires a unified approach.

The President laid out, in vivid terms, why this is so important that we achieve success in our mission in both countries. Let me quote from his speech laying out the new strategy. I am quoting President Obama:

> Multiple intelligence estimates have warned that Al Qaeda is actively planning attacks on the U.S. homeland from its safe-haven in Pakistan. And if the Afghan government falls to the Taliban—or allows Al Qaeda to go unchallenged—that country will again be a base for terrorists who want to kill as many of our people as they possibly can.

It gets no clearer than that. The very people who attacked us on 9/11 are plotting future attacks on us in Afghanistan and the border region in Pakistan. We must disrupt and neutralize these groups before they strike again.

A theme I have emphasized in recent weeks is that the President, supported by his Cabinet officers and top aides, must continue to engage the American people on why our mission in Afghanistan and Pakistan is so essential to our national security. In other words, it is not enough to have one Presidential speech on our strategy and then to ignore the issue. I know this President, and I understand he will not do that. Instead, he will continue to talk about the importance of the sacrifices being made by our fighting men and women in that theater. He will lay out a series of benchmarks to measure progress by the Afghan and Pakistani Governments and then give us clear indications as to how they are doing. The American people will support their Commander in Chief but only provided they are given updates on the progress achieved at regular intervals.

Let me conclude with one final observation. During the lead up to and the early execution of the Iraq war, the Congress was rightly criticized for being missing in action. Tough questions on our mission and our strategy were not asked often enough. Administration assertions were too often taken at face value. We cannot allow that to happen again, not in a military conflict so vital to the security of the American people.

I support the President wholeheartedly, but that support is neither blind nor unthinking. I happen to chair the Senate Foreign Relations subcommittee responsible for the Middle East and South Asia. Accordingly, Afghanistan and Pakistan fall within my subcommittee's jurisdiction. I intend to hold hearings later this year to review the administration's implementation of the strategy it announced recently, with a special focus on the promised benchmarks for success in both countries.

Effective congressional oversight is essential if the United States is to have unity of purpose and unity of will to, as the President has said, disrupt, dismantle, and defeat al-Qaida in Pakistan and Afghanistan and to prevent their return to either country in the future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BANKRUPTCY CODE REFORM

Mr. DURBIN. Madam President, later this week, probably tomorrow or Thursday, we will consider an amendment which I will offer relative to the Bankruptcy Code. I can remember not that many years ago, when we reformed the Bankruptcy Code, I was a member of the Senate Judiciary Committee—a new member—and the ranking chairman of the Subcommittee on Bankruptcy was Senator GRASSLEY of Iowa. He had worked on this for quite some time.

I looked around the Senate Judiciary Committee and reflected on my colleagues, many of whom had served for years in the Senate and on that committee. But when it came to the issue of bankruptcy, 10 years ago, I realized something that was a little amazing. By virtue of the fact that I had taken a course in bankruptcy at Georgetown Law School 30 years before—a 3-hour, one-semester course—and had been appointed a trustee in bankruptcy in the Federal court in Springfield, IL, over a bankrupt gas station, I had more experience in bankruptcy than any member of the committee.

Nevertheless, we embarked on this reform of the Bankruptcy Code—a massive undertaking. It took years before it was finally accomplished, and during the course of that a lot of amendments were offered. Of course, I viewed bankruptcy then and now as the last resort of desperate people. But, sadly, many millions of Americans have found this to be the only thing to which they can turn. They have reached such a point in their lives and in their economic experience where they have no choice but to turn to bankruptcy court and try to wipe the slate clean and to start over.

The major reasons people go into bankruptcy are pretty obvious—the loss of a job; the No. 1 reason, of course, is health care bills. People end up with bills that aren't covered by insurance and have no place else to turn. Sometimes a bitter divorce will end in bankruptcy court. It is rare that people turn to it. I think many of the critics of bankruptcy think people are just looking for any opportunity to go to bankruptcy court. I don't think that is the case with the majority of those petitioners who file for bankruptcy.

So here I am again, some 10 years later, looking at the Bankruptcy Code, but this time in a different context altogether. At this point in time, more and more Americans are headed for bankruptcy court for a new reason. They are losing their homes. They fell behind in their payments on their mortgages, became delinquent, and now face foreclosure. You know what I am talking about—people who have lost their jobs, people who signed up for mortgages that were very misleading, people who ended up in a circumstance where the mortgage they signed ends up triggering a new interest rate they can't sustain. So the most important asset they have on Earth—their home—is about to be lost, and they are headed to bankruptcy court to try to salvage something out of their lives.

Now, if the person headed for bankruptcy court facing foreclosure on their home is well off and has other real estate, such as a vacation condo in Arizona or Florida, it is interesting what the bankruptcy court can do. The person who comes in filing for bankruptcy facing foreclosure on two pieces of real estate, the home and the vacation condo, finds out that the court treats them totally different.

When it comes to the vacation condo, the bankruptcy judge sits down, takes a look at the assets of the person filing for bankruptcy, and tries to determine whether at the end of the day they can ever make another mortgage payment. For some, it is hopeless; they have lost a job and they are so far behind it will never work. But for others, they are right on the edge. So the bankruptcy judge has the power, when it comes to the vacation condo, to rewrite the terms of the mortgage that is being foreclosed upon because the judge concludes that the person can make a mortgage payment, if in fact the person is given a new interest rate or a new term for the mortgage.

That is what they can do with the vacation condo. But what can the bankruptcy judge do when you file for bankruptcy facing foreclosure on your home? The answer is nothing. There is nothing the court can do. There could literally be a circumstance where a person could have a restructured mortgage coming out of bankruptcy to save that condo in Florida but lose their home. That is the way the law is written.

The same is true when it comes to farms and ranches. Not long ago some of the critics of my amendment were pushing in Congress and in the Senate a revision in the bankruptcy law which said, if someone goes into bankruptcy facing foreclosure on their farm, then we ought to let the bankruptcy judge see if they can rewrite the terms of the mortgage. We passed that into law. The same thing applies to ranches—farms, ranches, second homes, and vacation condos. The bankruptcy court has that power. But when it comes to your home it does not.

How do you explain that? Why in the world could someone turn to the bankruptcy court for relief for every piece of property but the most important one in life? The answer is that it is the law, and that is what the Durbin amendment would change.

Of course, there are some who do not like this change—the banks. They don't like this change because it means at the end of the day, if they will not sit down with someone facing foreclosure to try to work out and renegotiate the terms of the mortgage—at the end of the day that person may go to bankruptcy court and end up having a judge do it. That is the court of last resort when one is facing foreclosure under my amendment. So that is why many of the banks resist it. They don't want to sit down and renegotiate the terms of the mortgage.

Now let's take a look at where we are in America today. This is not the first time I offered this amendment. I offered it last year to give the bankruptcy court this power. When I offered it, the critics said: We don't need it. Mortgage foreclosure is not that big of a problem.

When I offered this amendment last year, we estimated that 2 million American homes would be lost to foreclosure. Since then things have changed dramatically. The best estimate now from Moody's, a group that most people trust when it comes to making economic forecasts, is that instead of losing 2 million homes to foreclosure in America we are likely to lose more than 8 million homes to foreclosure in America.

What would 8 million homes in foreclosure represent? It would represent one out of every six home mortgages in America.

Visualize your own street you live on or the building in which you live. Imagine how many people are paying a mortgage payment on that street. Now imagine that one out of six loses their home. What impact does that have on you as a neighbor? It is not good. The value of your home goes down if there is a foreclosure in your neighborhood. Even worse, your neighborhood could change.

A foreclosed home, 99 percent of the time, goes back to the bank. It is not sold on the market and reoccupied. It sits there. I have seen them. I have seen them in Chicago, and I have seen them in Springfield, IL. These are homes that are boarded up with plywood. The lots in front of them look like a trash heap. Many times vandals come in and rip out the plumbing if they can get some copper pipe out of it, and sometimes it ends up becoming a haven for criminal activity and drug trafficking. It can literally destroy a neighborhood, and I have seen that happen—one foreclosed home.

Why? The banks can't do anything with it. They can't sell it on this market. They certainly do not put the time in to maintain the home as you would your own home in that same neighborhood. And everybody suffers as a result of it.

In addition, the banks that go through mortgage foreclosure end up spending $50,000—that is about the average of what it costs a bank to have a home foreclosed upon.

It looks as if there are a lot of losers in this process I have just described. A family loses their home, a neighborhood sees a decline in value of all the real estate around it, and there is an eyesore at least, and maybe worse, and the bank ends up with a $50,000 debt. One would think under those circumstances that banks would be anxious to try to figure out if they could keep a person in their home.

I told a story last night which I think illustrates it. A flight attendant on a flight back to Chicago pulled me aside and said: I am a single mom with three kids. I have a home in the suburbs. My mortgage rate is too high. I can't make the payments anymore. I don't want to lose the home. If I could just renegotiate now to the lower interest rate I can make the monthly payments, and I could save my home. But what am I supposed to do?

And the answer I had to tell her was, basically: Beg the bank, and if they won't go along with renegotiating the mortgage, you are in a pretty sorry situation. You are facing delinquency, default, and foreclosure in a credit situation that is going to be absolutely horrible.

So we wrote this bill, not just to give the bankruptcy court the power to renegotiate the terms of the mortgage but also to set up conditions. Here are the conditions: The first one is, if someone is anticipating going to bankruptcy court, they are required to present to their lender, the bank with their mortgage, at least 45 days in advance of filing bankruptcy, the legal documentation of their economic circumstances: an indication of their income, a balance sheet on their assets and liabilities so the bank can take a look at them and see if there is a way to save this person who might otherwise face foreclosure.

I think about that flight attendant. She could prove that she has a steady job. She goes to work every day. She has been a model citizen, but she got caught in a bad mortgage, and when the ARM reset she couldn't keep up with it. At that point, if the bank offers her a renegotiated mortgage where she is paying at least 31 percent of her gross income as the mortgage payment—if the bank makes that offer, then this flight attendant and others, if they do not take the offer, cannot ask for the bankruptcy court to change the terms of the mortgage.

It is pretty basic. We put a limit on how much of a house someone can take into this process. It is about $729,000. We also say that only loans that originated before January 1 of this year are eligible for modification. The loans must be at least 60 days delinquent before they are eligible for modification, and only loans for which a foreclosure notice has been sent are eligible. So it is an emergency, a pretty drastic circumstance before a person would exercise these rights, go to a bank, put their documentation on the table and see if they could get a renegotiation of their mortgage.

I think it is a reasonable way to stop some of the mortgage foreclosures, and I think this is essential if we are going to turn this economy around. This recession started in the mortgage market, and it will not end until we straighten out that same market.

Unfortunately, there were a lot of smooth operators out there. Let me tell you the story of one woman in Chicago, and I think this is such a classic illustration. This lady had worked her whole life at a little factory, and she had saved up a little bit of money but she was counting on Social Security. She had basically paid off the house in which she lived and she was in retirement. She had the Social Security checks coming in and, of course, she believed she was in a secure situation.

A knock comes on the door, and a person says: Mrs. So-and-So, I just wanted to let you know you aren't living on one lot, you are living on two lots. You see, it turns out there are two parcels here. Your backyard is a separate real estate parcel and you have failed to pay the taxes on it and it has been sold at a tax sale.

This is a woman, a wonderful woman who worked her whole life. She wasn't a lawyer or an accountant or a real estate expert, and she went into a panic, to think that somebody was going to build something in her backyard.

She said: What can I do?

They said: You have to come up with money to buy back from the tax sale for the real estate taxes that went unpaid.

It turned out they had been mailing the notices of the taxes to another address. She wasn't aware of it.

So she looked around and saw on television an offer for a home refinancing. She called the 800 number, and the next day somebody showed up at her house and said: We can take care of this. This poor lady, 48 hours later, was brought into an office of a mortgage broker in Chicago. This is all happening in 72 hours. They sat her down at a table without asking for any evidence of her income or her net worth and handed her a stack of papers and said: Just sign these papers.

If you have ever been through a real estate closing, have you ever felt so hopeless in your life as with that stack of papers? As a lawyer I used to sit there and think: I hope I have looked through everything that is in there because it is page after page of small print, most of it in terms most people wouldn't understand.

She signed all of these documents. They gave her the money to buy the lot back from the tax sale, and they said we will give you a little extra money on the side. She thought everything worked out. The monthly payment was something she could handle.

Then came the reset. In a matter of a year or two the reset on the mortgage, this adjustable rate mortgage, drove the monthly payment up to the point where they were taking 80 percent of her Social Security check. She was about to lose her home, the whole thing now, because of what she had signed up for.

That is when I met her in this desperate circumstance, where she turned to people and said: Is there anybody who can help me out of this mess? She was in her late sixties and just beside herself to think that she would have to give up this home that she had hoped to live in for the rest of her life.

Thank goodness a bank did step forward, refinanced the whole project at a reasonable interest rate, and she was

able to stay in the home. But her story is not unlike a lot of others where people got into a circumstance with a mortgage broker and a bank and ended up signing up for a mortgage they couldn't handle. It happened to a lot of people.

These mortgage brokers—incidentally, many of them were engaged in predatory lending; that is breaking the law—fraud, misleading people because it was a hot market. Boy, if you could move a mortgage as quickly as possible, the next thing you knew it was part of a big security arrangement off with some big bank somewhere.

When I talked to the banks about giving people a second chance facing mortgage foreclosure, the banks told me: These people made a big mistake. Why should we bail them out of their mistake? Why should we feel any responsibility to them for the mistakes they made?

It is a pretty heartless argument. It is even worse nowadays because the very same banks, such as the American Bankers Association, and the community banks—not as many of those, I might add, but the very same banks that are saying these people have to pay a price for bad decisions, many of these banks were in line to receive millions if not billions of Federal dollars because of the same mistakes they made. When they made a business mistake, they ended up turning to the Government and our taxpayers. All of us ended up trying to help our banks get out of the mess they created with these subprime mortgages and the instruments that followed.

So the same banks that made these terrible mistakes, built these rotten portfolios, facing bankruptcy themselves, about to go out of business, happily took the money in from the Federal Government and now, when we say to them: What about the victims on the south side of Chicago or Albany Park or near Midway Airport—what about them? Can we give them a second chance? No, sir. Don't you understand what a moral hazard is? People have to pay the price for bad mistakes.

Bankers, obviously, don't believe they have to pay the price. Sadly, the situation is one that will be manifest in the vote we are about to take in just a few hours—maybe in the next day or two—on the Senate floor. I have been working on this for 2 years. I thought this was unfair at the start, that the bankruptcy court could not sit and rework this mortgage as it can for so many other pieces of property. I didn't realize when I started this journey that 2 years later we would still be talking about millions of homes facing foreclosure and people desperate for it.

America is going to be a different place if 8 million homes face foreclosure. Unfortunately, a lot of towns are going to be different and a lot of neighborhoods are going to be different and these bankers are counting on the fact that at the end of the day, Uncle Sam will keep sending them money, trying ways to buy them out because they are too big to fail. The banks are too big to fail. These financial institutions, they know at the end of the day they are going to get a helping hand from this Government. But when we asked them to give a helping hand to people facing foreclosure, they walked away from the table. They walked away from the table. They would not negotiate with us, even though we put in reasonable requirements for people to do the right thing. They walked away from it. They feel no responsibility toward these people. That is unfortunate. It is unfortunate for the victims. It is unfortunate for our Nation.

This is not the last time we are going to visit the issues involving banks. I have learned the hard way that they are a pretty powerful lobby. One would think after what we have been through with this real estate bubble—the subprime mortgage mess with a lot of these banks, people trying to run away with multimillion-dollar bonuses in the midst of taking money from the Federal Government—one would think with all of that, the bankers wouldn't have the political clout in the Senate, but they do.

It is going to be a real test to see if we can come up with the 60 votes we need in the Senate to change this law and give these homeowners a fighting chance. I am not sure we can, but I think it is worth the effort.

I might say to the bankers, if you beat me this week—I hope you do not but if you do—hang on tight; we are coming back at you next week.

Do you know what we are going to talk about next week? Credit cards. We are going to talk about what these banks do with credit cards to consumers and families and businesses across America. And you know what I am talking about, situations where people face interest rates that all of a sudden mushroom overnight for no apparent reason.

I have had this happen. Send your payment in a day late. Watch what happens. You not only get a penalty for being a day late, they charge you interest on the penalty, and then interest again the following months. It just keeps coming at you.

You start adding it up and you think to yourself, this is an outrage. And it is an outrage. Time and again what these banks have done with their credit cards is to put people in a credit trap.

They had a feature on NOVA that I watched last year analyzing the credit card industry. It had this one fellow in there who is considered the wizard of credit cards. This man was the greatest mind in the world when it came to credit cards. A curious thing about him, though, they would not identify where he lived. They made a point of saying, he would only agree to an interview if we did not disclose where he lived. Very unusual, right.

Well, this man, in his infinite genius, came up with the following: He came up with the idea that the minimum monthly payment, instead of being 4 percent, should be 2 percent. Do you know why? Because if you pay 2 percent a month you will never, ever get out of debt. You are stuck. The minimum monthly payment is a guarantee that the interest is going to eat up everything you pay by the next month.

During the bankruptcy debate here, I had a simple little amendment. The amendment said this: If you have on your monthly statement a minimum monthly payment on the credit card, the bank issuing the credit check has to put below that minimum monthly payment: And if you make the minimum monthly payment, it will take you X months to pay off the balance and you will pay X dollars in interest.

The credit card companies refused to put that information on the monthly statement. And you know what they said to me: It is impossible to calculate that. Sure it is. It is impossible to calculate it, because they know if the average borrower, the person with that credit card, knew what that monthly minimum payment meant, they would think long and hard about whether that is all they are going to send in.

It is tough love in a way. Some people did get overextended in credit. But these credit card companies milked it for every penny it was worth. Senator CHRIS DODD of Connecticut is going to bring us this credit card reform bill. The House of Representatives is about to pass one this week.

So next week, I would say to my friends at the financial institutions and the banking industry: Hold on tight. We are coming at you again. And this time we are going to try to help out the consumers across the country, to help out the families who are being ripped off by credit cards every day, every single day.

In a tough economy, people who turn to these credit cards in desperation sometimes are the most helpless victims. I think it ought to go beyond that. I would not stop there. I have legislation which does something that has not been done in a long time in this country. It establishes a usury rate. Usury used to be the established ceiling, the maximum, that you can charge for interest. We got away from that a long time ago. We said, we will let the market decide.

Well, I put in a bill that said: The maximum you can charge for interest for any 1-year period is 36 percent. That would be for mortgages, that would be for credit cards, basic loans. The reason I picked that number was that a few years ago we decided that members of the U.S. military and their families were being exploited so badly by the pay-day loans and title loans and installment loan operations that we put a limit on the interest rate that can be charged to our military and their families of 36 percent. Why? Because a lot of soldiers borrowing money, their family borrowing money, got so deeply in debt and could not get out of it, they had to leave the military service. After being trained and

ready to serve our country, they could not continue. So we put this protection in of 36 percent.

If that is good enough to protect our military, why is it not good enough to protect every American? I think 36 percent is reasonable. But I learned something as soon as I introduced that bill. It is amazing that this industry, like the title loan business, and the pay-day loan business, it is amazing what they will come in, sit down in your office and say to you with a straight face. I said to this group in Chicago: Well, how much do you charge in interest at these pay-day loans and title loans?

The fellow said: Senator, you know it is the circumstance.

I said: How much do you charge?

Well, you know, on an annual basis somewhere between 58 and 358 percent.

What—58 and 358 percent?

Yes, but those are circumstances.

It gets down to the bottom line. Those people should not be in business. These poor people who think they are borrowing money are never going to get out of that hole. And we make it legal in this country. If you did it as part of some gangland activity, it would be extortion, and it might lead to criminal prosecution. But if you do it with a certain sign in front of your business, it is considered the free market at work. Well, I think it is the free market run amok. That is why I think it needs to be changed.

So we are going to face this vote this coming week. It is a very important one. It is one I hope will change the landscape. I hope that more homes will be spared from foreclosure. And I hope we can start stabilizing the real estate market.

I think when we do, we are going to find our way out of this recession. Until we do, we are going to keep looking for the bottom. How many homes will go in foreclosure? How many will sit vacant? And how low can the value of our homes go for those of us paying our mortgages every month?

That is what we are up against. We have not found that bottom yet, because the banks are not prepared to step forward and support any legislation that gives those people a fighting chance. They will have their opportunity this week in the Senate to speak.

Members of the Senate, tomorrow, I will go through State by State and show you what some of these States are facing. Mortgage foreclosures are bad in Illinois. Some parts of Chicago are horrible. But in some States it is devastating.

I think Nevada is a classic example of a State where mortgage foreclosures are out of hand at this point. We have got to do something. We have got to step forward. The President supports this proposal I am bringing to the floor. I hope we can find some Members on both sides of the aisle, particularly on the Republican side of the aisle, who will join us.

I yield the floor.

STATUTORY TIME-PERIODS TECHNICAL AMENDMENTS ACT OF 2009

Mr. LEAHY. Madam President, I am pleased that yesterday the Senate passed the Statutory Time-Periods Technical Amendments Act of 2009, H.R. 1626. This good-government bill creates a more consistent and standard method for lawyers and judges to calculate court deadlines. It is a small but important bipartisan bill that will improve the effectiveness of our judicial system.

Last week, the House of Representatives passed this bill on their suspension calendar. The Senate has given its unanimous support to this legislation, and I look forward to the President signing this bill.

Last month, I introduced an identical measure in the Senate with Senators SPECTER, WHITEHOUSE, and SESSIONS. In the last few weeks, I have worked with many others in the House and Senate to ensure that this legislation proceeded quickly through both Chambers of Congress. Representative HANK JOHNSON has worked especially hard to move this bill through the House. We have a strong bipartisan bill that will result in significant improvements in the efficiency and effectiveness of our judicial system.

This legislation incorporates the full recommendations of the Judicial Conference of the United States to alter deadlines in certain statutes affecting court proceedings to account for recent amendments to the Federal time-computation rules. It provides judges and practitioners with commonsense deadlines that are less confusing and less complex than current deadlines and also ensures that existing time periods are not shortened.

After much study and significant public comment, the Judicial Conference's Standing Committee on Rules of Practice and Procedure and the Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules arrived at proposed new rules intended to provide predictability and uniformity to the current process of calculating court deadlines. The proposed rules respond, in part, to findings from the Judicial Conference that the current time-computation process is confusing and can lead to missed deadlines and litigants' loss of important rights. Under the current time-calculation rules, weekends and holidays are not counted when calculating court deadlines of less than 30 days but are counted for calculating court deadlines longer than 30 days. The proposed new rules simplify this process by counting holidays and weekends regardless of a court deadline's time period. According to the Judicial Conference, these proposed changes would respond to practitioners' complaints and concerns from judges.

This legislation amends a number of Federal civil and criminal statutes affecting court proceedings and harmonizes them with the proposed rules. First, this remedial bill alters certain statutory court deadlines to counterbalance any shortening of the time period resulting from the ''days are days'' approach. For example, the bill changes 5 days to 7 days, and 10 days to 14 days, to prevent time periods from becoming shorter when a practitioner counts all days, including weekends. This change would, in effect, maintain the same time periods in the statutes. In addition, if a time period ends on a holiday or a weekend, the time period would be extended to the next business day. The bill also changes some statutory deadlines that would otherwise be inconsistent with the amended rules deadlines and lead to confusion.

Both the Department of Justice and the Judicial Conference urge swift consideration of this proposal on or before December 1 of this year, the date the Judicial Conference's amendments to the rules take effect. I am pleased that we are able to accommodate their request.

Passing this bill is the right thing to do. I know that the legal community will benefit from the uniform court deadlines that this legislation provides. American citizens will have their rights more fully protected by court deadlines that are clear and unambiguous. Even more, public confidence in our justice system can only be strengthened when court procedures operate in a manner that is free of any unnecessary confusion.

I thank the Department of Justice and the wide array of legal and bar organizations that have supported the Judicial Conference's recommendations incorporated in this bill, including of the American College of Trial Lawyers, the Council of Appellate Lawyers, and the American Bar Association's Section of Litigation and Criminal Justice Section. I am especially grateful to the Administrative Office of the Courts which, on behalf of the Judicial Conference, sent us those policy recommendations from the Federal judiciary. Those recommendations are included in this bill, and I commend them for their hard work and attention to this issue.

Only a few months into a new administration and a new Congress, it is incumbent upon us to continue to focus on the requirements of the Federal judiciary that our citizens and our Republic need and deserve. The measure we passed yesterday is a positive step in the right direction.

I look forward to President Obama promptly signing it into law.

TRIBUTE TO SHAP SMITH

Mr. LEAHY. Madam President, I would like to take this opportunity to recognize the remarkable leadership of Mr. Shap Smith who represents the towns of Elmore, Morristown, Woodbury, and Worcester, and who is now the current speaker of the Vermont House of Representatives.

Having recently assumed the role of speaker at the beginning of this legislative session in January, Mr. Smith

has already made his mark as a fair-minded and seasoned leader. He has driven the successful passage of several pieces of legislation, addressing Vermont's sexual abuse response system and legalizing same-sex marriage, among other important issues. Marcelle and I recently had dinner with Shap and his wife Dr. Melissa Volansky. We are both impressed with his commitment to Vermont.

I am looking forward to watching Shap Smith continue to lead the Vermont Legislature and build a record of fiscal and social responsibility. I wish him luck as he undertakes this challenging job during these difficult times.

I ask unanimous consent that the text of an April 20, 2009, Rutland Herald article about Mr. Smith be printed in the RECORD.

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

[From the Rutland Herald, Apr. 20, 2009]

SMITH LEADS WITH GRINNING STYLE

(By Susan Allen)

MONTPELIER.—Each speaker of the Vermont House has his or her own leadership style.

Ralph Wright growled.

Michael Obuchowski boomed.

Walt Freed ruled.

Gaye Symington analyzed.

And Shap Smith . . . well, he grins.

''I'm a friendly guy,'' said House Speaker Smith, new to the post this session, when asked last week about his style. Smith, himself a Democrat, reaches across the political aisle to work with Republicans, Progressives and Democrats alike.

But don't think he's a pushover.

''People know I take the issues pretty seriously,'' added Smith, a University of Vermont and Indiana University School of Law graduate who handles intellectual property, insurance coverage and civil litigation with the firm Dinse/Knapp/McAndrew during the off-session. ''I can go toe-to-toe in debating issues.''

Looking at the speaker, opponents might be tempted to underestimate his political skills. With a wiry frame from running, cross-country skiing and other athletic activities, and his wire-rimmed glasses, Smith looks about 25. He is, in fact, 43.

And anyone who thought he might be too young to lead need look no further than the recent House vote to override the governor's veto of the same-sex marriage bill. Smith needed 100 members to support the override, and going into the vote, the outcome was far from certain.

As he announced the final tally to the House floor—to the surprise of many, the needed 100 voted with the speaker and same-sex marriage would become law in Vermont—Smith stepped away from the podium briefly and appeared emotional.

''I have friends and colleagues to whom and for whom this bill meant a great deal,'' he said during a conversation last week in his window-lined Statehouse office. ''I am very pleased we were able to do it. It was a great achievement.''

Shap is actually Shapleigh Jr., a name that came from his grandmother, who was adopted into the Shapleigh family from the town of Shapleigh, Maine. His grandmother grew up in West Lebanon, N.H., where ''there were all these Shapleighs,'' he added.

''I went to high school in Morrisville. I always wanted a different name,'' Smith said. ''Dave or Tim would have been just fine. Shapleigh is not a usual Vermont name.''

Smith had an eye on public service since serving in student government in school. He followed politics closely in the 1990s while living in New York City and working for a law firm there, and started becoming more serious about a run after moving to Morrisville in 1999.

In 2002, with 2-month-old son Eli at home but an open legislative seat calling, he took the plunge, becoming what he described as the ''Stealth'' candidate knocking on doors, re-acquainting himself with friends from childhood and their families, and quietly winning the seat under the radar.

As all legislative leaders discover, juggling the pressing Statehouse agenda and a home life is challenging (he has two young children, and wife Melissa is a general practitioner).

''I go home almost every night,'' he said, adding that he tries to arrive in time to read to his children or at least put them to bed. ''I'm the one that gets them up in the morning, which is a real reality check.''

Things are less clear at the Statehouse, where Smith is focusing on his legislative agenda:

(1) Repairing and maintaining Vermont's transportation system—the roads and bridges;

(2) Expanding and improving telecommunications (computer broadband) in rural areas;

(3) Strengthening Vermont's public education system; and

(4) Trying to close the gap in educational performance between students on the lower economic scale and their wealthier peers—a disparity consistently documented in national and state school test scores.

Hanging over those priorities is the staggering challenge of trying to balance the state budget in dire economic times, with the state hemorrhaging red ink. It is, he said, a task that ''keeps me up at night.''

''How do you balance being fiscally responsible with meeting the needs of the state?'' he asked rhetorically. And while not completely unexpected, the economic challenge has been ''worse than some of us thought it would be.''

Returning to the place he was raised, meeting and re-meeting neighbors, old friends and classmates, and watching his children grow up in the same area he did seems to drive Smith's political vision.

''I want to make sure we put in place policies that allow the next generation to have the opportunities that I did,'' he said.

REMEMBERING AL MYERS

Mr. LEAHY. Madam President, I am both proud and saddened today to salute Mr. Al Myers, a beloved teacher at Williston Central School in Vermont who recently passed away after being injured while working on the set of a school play. Mr. Myers was best known as a popular educator who was remembered by former school principal Lynn Murray as being ''brilliant with children.'' As a U.S. Senator, I remember Mr. Myers bringing students to Washington, DC every year. He truly wanted them to understand the importance of living in the world's greatest democracy.

In memory of Mr. Myers, I ask unanimous consent that the following memorial article, by Matt Ryan of the Burlington Free Press, be printed into the RECORD.

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

[From the Burlington Free Press, Apr. 27, 2009]

MYERS' DEATH MOURNED

(By Matt Ryan)

WILLISTON.—Parents, students and teachers at Williston Central School are mourning the death of a popular educator who fell from a ladder and suffered a severe head injury while working on the set of the school's production of ''The Wizard of Oz.''

Al Myers was found in the auditorium Friday morning and transported to Fletcher Allen Hospital where he underwent surgery. He died Saturday morning, according to the school.

Julie Longchamp, the producer of the school play, worked with Myers for 20 years.

''He was an extraordinary man with a lot of passion,'' Longchamp said. ''Everyone has come together and we're going to be putting Al's show on.''

Longchamp prepared for the play near Myers' desk, in their office at the school Sunday evening. In the auditorium, parents and students quietly worked on the play's set and costumes, the Emerald City and Glinda's pink dress. Tickets for the show, which is scheduled for this weekend, sold out April 1.

''The play the Wizard of Oz will go on as scheduled under the direction of Julie Longchamp,'' principal Walter Nardelli wrote in an e-mail to parents. ''Al and his family would have wanted it that way.''

Counselors will be available today for students, and staff will attempt to keep the day as normal as possible, Nardelli said. He encouraged children to go to school. Students were on break last week.

The school was coordinating with Champlain Valley Union High School to support former students who worked with Myers, Nardelli said.

Myers had directed many theater productions over the years. Former students and parents of students posted thoughts about the teacher on several Facebook pages dedicated to his memory. They wrote about working with Myers on plays like, ''Annie Get Your Gun,'' ''Fiddler on the Roof'' and ''Macbeth,'' and catching his infectious love for music and theater.

''Mr. Myers was a wonderful teacher who took me under his wing as he did to so many others,'' David Stephens of Burlington wrote. ''I remember the sing-a-longs that he had in class where he would pull out his guitar and would have 100 percent participation because it was so much fun. I can still remember a bunch of the songs we would sing, 'Feeling Groovy,' 'Blowin' in the Wind.' ''

Former Williston Central School principal Lynn Murray remembered Myers being ''brilliant with children.''

''In my entire career, I have never met anyone with so much heart, so much talent and so giving a nature,'' Murray wrote.

According to one Facebook page, a celebration of his life will be held at noon, May 16 at the Williston Central School. As of 9 p.m. Sunday, more than 450 people joined the ''In Memory of Al Myers'' Facebook page.

''He's going to be a very, very missed man,'' Longchamp said.

AMERICAN CITY QUALITY MONTH

Ms. SNOWE. Madam President, I rise today to recognize that the month of April is designated as American City Quality Month. Through the continued efforts of the American City Planning

Directors' Council and the American City Quality Foundation, ACQF, the April 2009 theme is appropriately labeled, ''Support Planning and Action for Better Quality Communities.'' For many years the emphasis promoted by the ACQF and its numerous professional organizations and supporters has been to call attention to the vital need for improving American cities through quality planning—via coordinated efforts to produce effective decisions, design, development, management, and action.

As our country's population growth projections appear to reach an additional 34 million people by the year 2020, the importance of proper urban planning as it relates to area surroundings, land conservation, and quality of life becomes a crucial component of the United States' strategy to halt urban sprawl and the waste of both human and fiscal resources. Subsequently, through the devoted work, development, and planning of the ACQF and interested parties, the recognition has surfaced—that coordinated efforts on the part of city, State, and Federal governments, and the private sector need to be exacted more than ever. Such a critical mission must continue until there is mainstream coordination throughout the nation to improve our country's urban settings in terms of cultural, practical, and land conservation amenities.

Therefore, through the efforts of the American City Planning Directors' Council, the American City Quality Foundation, and other interested parties, I thank all who have joined together to address the challenges posed by our burgeoning cities, as the integration of efforts has and will continue to provide us with a plan and hope for the future that assures quality growth for our Nation's urban settings. The ACQF's mission toward reaching that goal has secured both the attention and admiration of the American public.

TRIBUTE TO ADMIRAL ROBERT E. PEARY

Ms. SNOWE. Madam President, I rise today to pay tribute to the 100th anniversary of ADM Robert E. Peary's discovery of the North Pole—a truly exceptional accomplishment. It was a hundred years ago this month that Peary and his men completed their epic journey through the Atlantic and placed the American flag on the North Pole, marking the historic discovery. And as we commemorate this landmark occasion, the State of Maine has much to celebrate with the lasting legacy of Admiral Peary and all that he has done for our State, Nation, and the world.

Born in Cresson, PA, in 1856, Peary hailed from a long line of Maine lumberman and spent most of his formative years in southern Maine with his mother, following the passing of his father. In 1877 he graduated from Bowdoin College in Brunswick, ME, after studying as a civil engineer. Commissioned as a lieutenant in the Civil Engineer Corps of the Navy in 1881, he went on to complete projects in Florida and Nicaragua, gaining an expertise that developed his love for the Arctic. Peary made his first expedition to Greenland in 1886 and for the next 23 years, he honed his skills and refined a deft intellect and acumen for the north seas, preparing him for his quintessential journey.

Although there are myriad contributions we could recognize, it is his adventure begun on July 6, 1908, that we most honor as Peary and his men sailed northbound in his ship, the Roosevelt whose plans he developed on Eagle Island in Casco Bay and which was built in Bucksport, ME. I might add! Having arrived at Ellesmere Island with 23 men, 133 dogs, and 19 sleds, on March 1, 1909, Peary set off for the final leg of his journey. For 37 days, they rode by sledge through one of our planet's most hostile environments. And it was on April 6, 1909, when Peary achieved his lifelong dream and history was made as he and his five colleagues were the first to step foot on the barren North Pole.

Although it may be easy to forget some of the challenges that Peary and everyone on his expedition endured, organizations such as the Friends of Peary's Eagle Island and the Peary-MacMillan Arctic Museum at Bowdoin College have captured this storied history, providing crucial educational tools for all of our citizens, young and old, as we seek to learn more of the expedition's triumphs on this centennial anniversary. Indeed, the State of Maine and her people have much cause for pride as we celebrate Admiral Peary's contributions this month, honoring a phenomenal milestone.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Madam President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

My husband and I both work out of the home. He is a biology teacher at a high school in Nampa, and I work part-time for a utility company. I work because I have to, but I work as little as I can because raising moral children is the better thing to do. We love Boise! Our home is about equal distance from our jobs, but in opposite directions. I go east; he goes west. Recently, I have approached my employer to allow me to work three full days a week instead of five shorter days. This is solely to save on the expense rising gas prices have on our budget. With the costs of gas, food, electricity going up, we are in a tough spot. I have been with my employer for 8.5 years, and my pay is maxed out. I must rely on a cost-of-living adjustment at the beginning of the new year, but since that is never a guarantee, it is not included in our budgeting plans until it happens. My husband is in his fourth year of teaching, and teachers' pay? Well, you know how bad that is. He will receive an increase in his yearly salary of $750 this year (for a total salary of just $31,750), hardly enough to compensate for those rising costs previously mentioned. (What is been most troublesome to me lately is that an individual my father associates with gets $36,000 a year in Social Security benefits for ''psychological'' reasons—most likely a result of years of drug use—and she spends $50/day on marijuana. So while the state government does not even pay my husband enough to provide for a family, they are giving an extra $4,000/year to support another person's drug abuse.)

The situation regarding higher gas prices is leading us to look into carpooling, keeps us from going out as much, and is a deterrent to buying a mini-van (we will try to squeeze three car seats into the back of our sedan when our third child is born). Several months ago, I considered biking to work; but with the traffic in Boise, I am fearful that I might be hit, and do not want to leave two children motherless. I would like to see more people carpool, or take other forms of transportation. Americans take energy for granted and in the past, have not been the least bit concerned about the impact of their selfish choices. I also looked into a bus route, but none runs very close to our home. In fact, the nearest pick-up is still several miles away.

What should America do? I do not know. Several months ago, I thought a gas ration would force conservation. Sometimes people need to be made to do what they will not willingly do themselves. Nuclear? I am concerned about the waste. Our own sources of oil? I guess I view them like I view my savings account—a reserve for emergencies. Using more of our own resources is a resort if/when we find that conservation is not effective enough. Conservation incentives? Seems that it would be rather hard to enforce, and many do not have the money to buy efficient upgrades. However, building requirements allowing only the construction of energy efficient homes might be a good start. If I am not mistaken, they generally use about 30% less power than a non-energy star home.

I think the only solution is a combination of solutions on a combination of problems. Sometimes you just have to fix everything at once—it is drastic, but the only way to make real change—even for the government. I do not have all, or even any of the answers, but a few brilliant minds, or even a few people who care, could figure it out together.

CHERIS, *Boise.*

You wanted to know how the rising cost of fuel is affecting me and my family. We, as of

March, bought a window covering franchise servicing Nampa, Caldwell, Star, Middleton, Mountain Home, while we live in East Boise. Our business is to take the choices to the customer in their home so we are on the road constantly. If the problem of rising fuel on a mobile business is not obvious, I can draw a picture. My costs of doing business increases with gas prices, with will affect me and the value my customers can receive. If this continues, it will make doing business very, very challenging. It is especially frustrating knowing that the reserves are available in this country and our elected officials are toying with our lives the way you are. Caps and windfall taxing is not the answer; get serious!

On another issue, I had to get into my own business because after 24 years at Micron my mid-management level job was eliminated to off-shore outsourcing, which again, our government has set the stage to make doing business overseas more attractive than doing business at home.

Good luck. I think if the [conservatives] would make more noise in the public about real solutions the public would force the liberals to made positive productive energy solutions occur. ''We the people'' are not stupid. Get the issues in front of us and those holding up progress will be removed.

KEN, *Boise.*

[My hometown] is based around farming. I can tell you that my son did work for a farmer locally and was laid off. The farmer could not afford to pay him or even raise his normal crop this year due to fuel prices, which has forced my Son to become dependent on me. I have no choice but to retire from my job next year due to poor health. With my loss of income to the household and the ever-rising fuel costs putting a hardship on everything, I see my middle-class family and me selling off everything and moving to skid row and being on welfare since fuel costs are driving down employment and raised the cost on most everything in this area. There are lots of stories like this one around here. And a lot of people in this community feel that the government is doing next to nothing to help. I see our nation in serious trouble if action is not taken now to solve soaring fuel costs.

I do not know if I have a specific or particular story about the impact of gas prices on me and my family. I am retired and on a fixed income. You talk about the impact of gas prices, and I say yes, I have become $50 a month poorer and will soon be $100, without any increase in income. but it is not just about my personal use. There is a financial impact in a hundred other ways. All food and other services are going up at the rate of 8 cents per item per week. As trucking firms and truckers go out of business and we have heard that a third of the nation's truckers have, we will see costs continue to increase. I used to consider myself to be middle-income but am now in poverty. I cannot afford to heat or cool my home buy good food, enjoy entertainment or visit friends anymore. If I was spending any money and someone was making some, that will stop. It seems that everyone's only solution is to raise prices causing us to buy less and less.

This is going to spiral into another great depression. [We] have got to open up our oil reserves. Allow states to get the oil we know we have. I am for a clean environment but none of those environmental lobbyists is going to vote you out of office because you allow drilling. There are way more people who want fuel. We know that cheap fuel sources are just around the corner. I guess I am just lucky I have a Geo to drive or I could not go anywhere. which reminds me I cannot drive my comfortable cars trucks and definitely not my motor home. I cannot sell them either as no one can afford fuel for them. I guess that means we can just scrap ¾s of American vehicles just like that because no one can invent a better one and no one can afford to buy it if they did.

Thanks.

ZACK, *Burley.*

Well I suppose I am one of those few, but, hopefully, growing renegades who believes that $4 a gallon is one of the best things to happen to the environmental world in recent history.

Cars and oil-run machines are here and we need them. But this increase in fuel costs has spurred all kinds of new ideas and technologies that need money and research. I hope that some of these new technologies will wean us away from the old fossil fuel standbys, and guide us toward new, sustainable fuel sources.

I recently heard a few, very promising things about algae farms that produce clean bio-fuels. They would not decimate the food source or encourage more soybean crops in the Amazon rain forest. Wind farms are growing and solar energy is actually being talked about. Here in Idaho, as you know, the wind blows and the sun comes out in late May and does not go back in until mid-September. These alternatives will not supply 100 percent of our power needs but 30 percent? 40 percent? I keep hearing all or nothing—we need something that will be omnipresent. But in the summer if we reduced 30 percent or 40 percent of our power needs would not that cut our fossil fuel needs too? Solar and wind also work in the winter—and if these industries received some of the huge subsidies that oil companies keep getting, would not they be, perhaps with more research, more sensitive and more productive?

I have read where most domestic oil drilling would not start producing anything for another ten years. Just imagine what ten years of research and development of alternatives could produce with all the energetic imagination that is going on right now. In ten years we might not even need that oil and those newly drilled areas would all be for not. And I think with all those profits the oil companies seem to be making, they could spare a few bucks of subsidies.

Locally, I still see all these expensive houses high in the hills of the Treasure Valley baking in the sun with hardly a solar panel to be found. The transportation situation is stagnant with a growing population and no alternatives to avoid vehicles. There is no interstate train service to or from here, and the public transportation in this valley is rather pathetic. The legislature keeps voting down any kind of local option tax and the possibility for any kind of light-rail seems like decades away.

I ride my bicycle just about everywhere, here in Boise. I see so many more people riding bikes and I think that is so cool. I have also been getting pretty excited by all the innovations I am starting to see out there, glimpses of new and wonderful alternatives to fossil fuels. But I keep hearing the big voice of government saying it will not work, this cannot be done and that cannot be done. But the idealist in me says it can. We are a smart enough country to deal with this in a wise and imaginative way. I know that if we start to let go, a little, of what we have been beholden to for so long, and open our minds to all possibilities then good things will start to happen.

JAY, *Boise.*

Simply put, I believe we should begin additional drilling immediately off our coasts, in the Rocky Mountains and ANWR. I also support flex fuels/bio diesel alternatives. We need to build nuclear power plants right away (I support doing this in Idaho; it would be nice if Idaho was energy independent and exporting power to other nearby states!) Please pass on the urgency of doing this expeditiously as it is essential to our national security.

Thank you for the ''i-meeting'' town-hall forum as it helps Idahoans save gas and conserve as well as participate in this very important process! As a voting Idahoan, I also believe in conservation, thrift, and responsible stewarding of our beautiful state.

TERESA.

We own a small business here in Idaho. We were looking forward to having our SBA loan paid off this year. The SBA payment has been as high as $2,200 per month, which at times has been a struggle, but we have managed to pay it off in the ten-year time frame. We are now fearful that we will be switching from paying an SBA loan payment to just paying for gas to survive. Our gas bill used to be $300 to $500 per month. It has now soared to over $2,000 per month. Tell us how we are going to stay in business? By the way, I have heard that the wind generators by Mountain Home are not working. Is this true and why?

STEPHEN and TERRY, *Mountain Home.*

It is not so much that the prices have risen. I understand the supply/demand concept. But what really irks me is that fact that the big oil companies are recording record profits and using the excuse that this will get them through the hard times or they need it for research to find more efficient fuel sources. I do not believe this. It has been quietly insinuated in the past of oil companies buying out any new fuel idea to keep their monopoly on the industry. They really do have a monopoly on the U.S. economy fuel source, and we have no recourse except to try and minimize our fuel use. We have done this by cancelling vacations and even short trips in the area. We also are going to the store less, planning each trip so that we can accomplish the most in one driving trip. The people with lots of money will feel the effects minimally but the middle to lower class are taking the brunt of this crisis. I do not think those with money (higher elected officials) have any idea the difficulties that we are encountering because they do not live that life. Walk in the shoes of some of us for a month and then see what is important and what is not.

I really do not see how drilling for more oil (like in Alaska) will make any difference when the oil companies use the excuses listed above. They are still going to get the highest dollar amount they feel they can get away with. The only way the price will change is if demand drops below what is on the market. But then, the oil companies can determine what is on the market (hold back their product) to keep the prices higher. Unless they are regulated in some way, they can do whatever they want.

TERRIE.

I just got back from a vacation in Yellowstone National Park, and the traffic was the worst I have ever seen in about 50 trips to the park. It was probably more due to timing than anything, but it still indicates that gas prices are relatively low for the middle class. I am more concerned about the affect of energy prices on lower income individuals.

In the long run, we need to focus on other issues, and improved energy costs will probably be an important side effect. The issues I would focus on are:

1. Too much traffic on our highways and city streets.

2. Too much crime in our cities.

3. Too much environmental impact from mining, drilling for oil and gas, and wind farms.

4. Too many farms being subdivided to build houses.

5. The ''nuclear waste problem'' and ''nuclear proliferation problem'' are not being addressed realistically.

If we take the obvious actions to solve these problems, there will be less pressure on energy prices:

1. Invest in public transportation. The federal government has spared no expense in improving highways over the past 50 years. Imagine the effect of an equal investment in train and bus service. I have ridden on buses all of my life, and it can be a nice way to travel or commute. The few trains I have ridden were also very comfortable and convenient. This has much more potential to save energy than hybrid cars or hydrogen powered fuel cells. A small van has the potential to provide hundreds of passenger miles per gallon of gas. Buses and trains should do even better.

2. Invest in ride sharing and car pooling.

3. Invest in nice cities. People should be able to live comfortably, with no fear of crime, within walking distance to work.

4. Invest in maintaining farm land as farm land instead of using it to create sprawling suburbs full of oversized houses.

5. Put a limit on the tax break for a first home. Eliminate the tax break for a second home. For one thing, I am sick and tired of hearing how rich celebrities are so ''green'' and have such a small ''carbon footprint'' when I know most of them own multiple, grossly oversized, tax-subsidized homes.

6. Invest in nuclear power. The public should be demanding better performance from the nuclear industry just like they do from the airline industry. We want airlines to operate on schedule, cost effectively, and operate safely, even with the security concerns raised by 9/11. We should be demanding similar performance from the nuclear industry and stop fretting about perceived problems.

With respect to the ''nuclear waste problem'', there is no reason to relate performance requirements to the half-life of long lived radionuclides. There is no reason to treat plutonium contamination as fundamentally different from other toxic metals such as lead, which have infinite half-life. In reality the biggest nuclear waste problem is probably our 700,000 metric tons of depleted uranium hexafluoride currently stored in corroding carbon steel cylinders. This volatile ''waste'' material is a serious environmental hazard, but should be managed as a major resource. It could be transmuted into plutonium in nuclear reactors and used to produce all the energy we need for the next 500 years. No mining, drilling, or refining would be needed. This would help eliminate the fantasy that we need to cover our landscape with windmills that do not even work most of the time.

With respect to nuclear proliferation, the only way to go is forward. The USA needs to lead the way in developing cost effective nuclear energy technology, so that less stable countries have no reason to develop their own technology. Then we will not need to worry about whether they are producing weapons grade materials. Improved technology should include reprocessing spent nuclear fuel. We should reprocess it instead of trying to bury it. Currently, it is self-protecting due to high radioactivity, but it will not be in about 200 years. We should not leave this hazard for future generations.

The public needs to be educated about energy. The general public has virtually no understanding of nuclear power, and they seem to be generally illiterate with regard to energy issues. Hydrogen-powered vehicles are unrealistic and do not make thermodynamic or economic sense. Windmills and solar panels have limited potential to reduce energy costs and major environmental impact if we try to push them beyond their potential. The idea that the world can just keep building more efficient cars and more roads is shortsighted and unrealistic. The idea that you can be ''green'' when your house in the suburbs is four times bigger than you need is ridiculous. Carbon credits are ridiculous. Turning food into alcohol for fuel is ridiculous.

DAN, *Pocatello.*

ADDITIONAL STATEMENTS

TRIBUTE TO LIEUTENANT GENERAL CLYDE A. VAUGHN

● Mr. BOND. Madam President, I offer my congratulations and gratitude to an extraordinary citizen-soldier from Missouri, LTG Clyde A. Vaughn. Lieutenant General Vaughn's 35-year career with the Army National Guard will draw to a close after completing an impressive 4-year tour as Director of the Army National Guard.

Lieutenant General Vaughn has earned the appreciation of our Nation and the State of Missouri for his extensive commitment to the Army National Guard. He began his distinguished career in 1974 when he was promoted to second lieutenant in the Missouri Army National Guard, beginning a 35-year career of dedication, accomplishments, and vision.

In his most recent position as Director, Lieutenant General Vaughn was responsible for the formulation, development, and implementation of all programs and policies affecting the Army National Guard. Previously, he served as Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters, at the Office of the Chairman of the Joint Chiefs of Staff in the Pentagon where he helped guide the Nation's response to the 9/11 attacks and transform the Army National Guard from a strategic reserve to an operational force. Prior to his work at the Pentagon, some of his assignments included serving as Senior Army National Guard Advisor for Reserve Affairs, Commander of Exercise Support Command, and Deputy Chief of Staff for Reserve Affairs-National Guard, at United States Army South, Fort Clayton, Panama. He has also served as Chief of Operations Division, at the Army National Guard Readiness Center in Arlington, VA, Deputy Chief of Staff, of the G3 at the Pentagon, and, Deputy Director, of the Army National Guard, at the Army National Guard Readiness Center in Arlington, VA.

His civilian education includes a bachelor of science in education from Southeast Missouri State College and a masters in public administration from Shippensburg University in Pennsylvania. His military education includes graduating from the U.S. Army Command and General Staff College, Fort Leavenworth, KS, and the U.S. Army War College, Carlisle Barracks, Pennsylvania.

General Vaughn received several awards and recognitions for his exemplary service. His many military awards include the Distinguished Service Medal; the Defense Superior Service Medal; the Legion of Merit, with four Bronze Oak Leaf Clusters; the Meritorious Service Medal, with one Silver Oak Leaf Cluster; the Army Commendation Medal; the Army Achievement Medal, with one Bronze Oak Leaf Cluster; the Joint Meritorious Unit Award; the Army Superior Unit Award; and various other awards.

He has proven himself to be versatile and fully capable of accepting and mastering the tasks placed before him. His enduring commitment to the safety of Americans is cause for admiration. I offer my congratulations and sincere appreciation to LTG Clyde A. Vaughn for his remarkable achievements in the Army National Guard. He has continually provided an invaluable service to his country, and we thank him for ''showing us'' what a dedicated soldier can do for Missouri and for his country.●

TRIBUTE TO CHIEF DAVID BALD EAGLE

● Mr. JOHNSON. Madam President, I wish to speak today to honor the 90th birthday earlier this month of my friend, Chief David Bald Eagle of Takini, on the Cheyenne River Reservation in South Dakota. Chief Bald Eagle was born on April 8, 1919, on the west banks of Cherry Creek in west central South Dakota. He is the grandson of Chief White Bull who fought Custer's 7th Cavalry in the Battle of Greasy Grass Creek, better known as the Battle of the Little Big Horn. Having a warrior spirit in his blood, he enlisted in the U.S. Army and was just being discharged at the beginning of World War II. He reenlisted, and served as a sergeant with the 82nd Airborne Division. In 1944, he was among those brave soldiers who jumped from planes on D-day as a U.S. Army paratrooper. Chief Bald Eagle was shot four times that day, and his story is recounted in ''Blue Stars: A Selection of Stories from South Dakota's World War II Veterans'' compiled by Greg Latza.

Upon return, Chief Bald Eagle went on to travel as a performer and has acted in at least 18 movies to date. While in Hollywood, Chief Bald Eagle worked alongside some of the most recognizable actors and actresses of that time: Clark Gable, John Wayne, and Marilyn Monroe. All the while he managed to stay connected to his home. For more than 60 years, Chief Bald Eagle has annually participated in the Days of '76 parade and rodeo in Deadwood, SD, providing the many thousands of people who attend the annual event a level of understanding and education about the Native American culture and heritage and the great impact

of the Lakota/Dakota/Nakota people on the region. He is recognized as an honorary member of the Days of '76 Committee because of his contributions to their events. In 2008, he was honored by the South Dakota State Legislature with a House Commemoration honoring his life, character, and achievements.

Madam President, Chief David Bald Eagle is a dear friend, and I appreciate being among those special people that he keeps in his prayers. I will never forget that he gave me my Lakota name several years ago in a special ceremony, ''Wacante Ognake,'' which means holds the people in his heart—a name I cherish and will never forget its importance.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

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. 1747. An act to authorize appropriations for the design, acquisition, and construction of a combined buoy tender-icebreaker to replace icebreaking capacity on the Great Lakes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 99. Concurrent resolution supporting the goals and ideals of a National Early Educator Worthy Wage Day.

MEASURES REFERRED

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

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; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1747. An act to authorize appropriations for the design, acquisition, and construction of a combined buoy tender-icebreaker to replace icebreaking capacity on the Great Lakes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 99. Concurrent resolution supporting the goals and ideals of a National Early Educator Worthy Wage Day; to the Committee on Health, Education, Labor, and Pensions.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 28, 2009, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 39. An act to repeal section 10(f) of Public Law 93–551, commonly known as the ''Bennett Freeze''.

S.J. Res. 8. Joint resolution providing for the appointment of David M. Rubenstein as a citizen regent of the Board of Regents of the Smithsonian Institution.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–1426. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Penoxsulam; Pesticide Tolerances'' (FRL–8411–9) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1427. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Poultry Improvement Plan and Auxiliary Provisions; Correcting Amendment'' (Docket No. APHIS–2007–0042) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1428. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Table Eggs From Regions Where Exotic Newcastle Disease Exists'' (Docket No. APHIS–2007–0014) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1429. A communication from the Acting Associate Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 2'' ((Docket No. AMS–FV–08–0094)(FV09–948–1 IFR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1430. A communication from the Acting Associate Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Decreased Assessment Rate'' ((Docket No. AMS–FV–08–0095)(FV09–920–1 IFR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1431. A communication from the Acting Associate Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, et al.; Change to Fiscal Period'' ((Docket No. AMS–FV–08–0066)(FV08–930–2 FIR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1432. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regulations Under the Perishable Agricultural Commodities Act, 1930; Section 610 Review'' ((Docket No. AMS–FV–08–0013)(FV08–379)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1433. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tomatoes Grown in Florida; Partial Exemption to the Minimum Grade Requirements'' ((Docket No. AMS–FV–08–0090)(FV09–966–1 FIR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1434. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2008–09 Crop Natural (Sun-Dried) Seedless Raisins'' ((Docket No. AMS–FV–08–0114)(FV09–989–1 IFR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1435. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Appalachian and Southeast Marketing Areas; Order To Terminate Proceeding on Proposed Amendments to Marketing Agreements and Orders'' ((Docket No. AMS–DA–07–0133)(AO–388–A15)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1436. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2009–2010 Marketing Year'' ((Docket No. AMS–FV–08–0104)(FV09–985–1 FR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1437. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of Size Requirements for Grapefruit'' ((Docket No. AMS–FV–09–0002)(FV09–905–1 IFR)) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1438. A communication from the Deputy Under Secretary of Defense for Logistics

and Materiel Readiness, transmitting, pursuant to law, a report relative to the operations of the National Defense Stockpile (NDS); to the Committee on Armed Services.

EC–1439. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 12978 with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–1440. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1441. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–1442. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–1443. A communication from the Acting Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing Securities Held in TreasuryDirect'' (31 CFR Part 363) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1444. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(74 FR 17094)) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1445. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(74 FR 16783)) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1446. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(74 FR 16785)) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1447. A communication from the Senior Counsel for Regulatory Affairs, Office of Domestic Finance, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Terrorism Risk Insurance Program; Terrorism Risk Insurance Program Reauthorization Act Implementation'' (RIN1505–AB93) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1448. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XN75) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1449. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska'' (RIN0648–XN83) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1450. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Secretarial Final Interim Action'' (RIN0648–AX72) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1451. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking and Importing Marine Mammals; U.S. Navy Training in the Southern California Range Complex'' (RIN0648–AW91) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1452. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Buy American Act; to the Committee on Environment and Public Works.

EC–1453. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting a courtesy copy of the report of a rule entitled ''Lead; Minor Amendments to the Renovation, Repair, and Painting Program'' (RIN2070–AJ48) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1454. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL–8896–3) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1455. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL–8896–5) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1456. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Finding of Attainment for 1-Hour Ozone for the Milwaukee-Racine, WI Area'' (FRL–8895–8) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1457. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Particulate Matter Regulations'' (FRL–8897–3) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1458. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Montana: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL–8895–7) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1459. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''New Source Performance Standards Review for Nonmetallic Mineral Processing Plants; and Amendment to Subpart UUU Applicability'' (FRL–8896–7) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1460. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ocean Dumping; Designation of Ocean Dredged Material Disposal Sites Offshore of the Umpqua River, Oregon'' (FRL–8893–1) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1461. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL–8783–5) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1462. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Toxic Release Inventory Form A Eligibility Revisions Implementing the 2009 Omnibus Appropriations Act'' (FRL–8897–4) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Environment and Public Works.

EC–1463. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 3401(h)—Differential Wage Payments to Active Duty Members of the Uniformed Services'' (Rev. Rul. 2009–11) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Finance.

EC–1464. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—May 2009'' (Rev. Rul. 2009–12) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Finance.

EC–1465. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Credit for Residential Energy Efficient Property'' (Notice 2009–41) received in the Office of the President of the Senate on April 23, 2009; to the Committee on Finance.

EC–1466. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to expand the sales territory associated with a manufacturing license agreement for the production of significant military equipment (SME) in Turkey; to the Committee on Foreign Relations.

EC–1467. A communication from the Acting Executive Secretary, U.S. Agency for International Development, transmitting, pursuant to law, the report of designation of acting officer and change in previously submitted reported information in the position of Assistant Administrator of the Bureau for Legislative and Public Affairs, received in the Office of the President of the Senate on April 27, 2009; to the Committee on Foreign Relations.

EC–1468. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''New Drug Applications and Abbreviated New Drug Applications; Technical Amendment'' (Docket No. FDA–2009–N–0099) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1469. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Astringent Drug Products That Produce Aluminum Acetate; Skin Protectant Drug Products for Over-the-Counter Human Use; Technical Amendment'' (RIN0910–AF42) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1470. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D2'' (Docket No. FDA–2007–F–0274) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1471. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Silver Nitrate and Hydrogen Peroxide'' (Docket No. FDA–2005–F–0505) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1472. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revision of Organization and Conforming Changes to Regulations'' (Docket No. FDA–2009–N–0144) received in the Office of the President of the Senate on April 27, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1473. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a nomination in the position of Director of National Drug Control Policy, received in the Office of the President of the Senate on April 27, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–1474. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''2008 Wiretap Report''; to the Committee on the Judiciary.

EC–1475. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, two reports entitled ''Fiscal Year 2008 Performance Summary Report'' and ''Fiscal Year 2008 Accounting of Drug Control Funds''; to the Committee on the Judiciary.

EC–1476. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report relative to actions undertaken to address recommendations received in the fiscal year 2008 study completed by an independent Panel of the National Academy of Public Administration; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

*Ronald C. Sims, of Washington, to be Deputy Secretary of Department of Housing and Urban Development.

*Peter A. Kovar, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

*John D. Trasvina, of California, to be an Assistant Secretary of Housing and Urban Development.

*Helen R. Kanovsky, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

*David S. Cohen, of Maryland, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

*Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States for a term expiring January 20, 2013.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. HUTCHISON (for herself, Mr. MARTINEZ, Mr. CORNYN, and Mr. KYL):

S. 903. A bill to permit a State to elect to receive the State's contributions to the Highway Trust Fund in lieu of its Federal-aid Highway program apportionment for the next fiscal year, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KERRY, Mr. FEINGOLD, Mr. SANDERS, Mrs. BOXER, Mrs. MURRAY, Mr. MERKLEY, Mr. LEAHY, Mr. SCHUMER, Mr. DURBIN, and Mr. AKAKA):

S. 904. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 905. A bill to provide for the granting of posthumous citizenship to certain aliens lawfully admitted for permanent residence who died as a result of the shootings at the American Civic Association Community Center in Binghamton, New York on April 3, 2009, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mrs. MCCASKILL):

S. 906. A bill to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security; to the Committee on the Judiciary.

By Mr. CARPER (for himself, Ms. SNOWE, Mr. BAYH, Mr. GREGG, Mrs. MCCASKILL, Mr. RISCH, Mr. UDALL of Colorado, Mr. BROWNBACK, Mr. WARNER, Mr. ISAKSON, Mr. NELSON of Nebraska, Mr. CRAPO, Mr. LIEBERMAN, Mr. BEGICH, Mr. VOINOVICH, Mr. ENZI, Mr. CARDIN, Mr. THUNE, Mr. BENNET, Mr. JOHANNS, and Mr. GRASSLEY):

S. 907. A bill to establish procedures for the expedited consideration by Congress of certain proposals by the President to rescind amounts of budget authority; to the Committee on the Budget.

By Mr. BAYH (for himself, Mr. KYL, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. WYDEN, Mr. VITTER, Mr. BURR, Mr. FEINGOLD, Mr. THUNE, Ms. STABENOW, Mr. MENENDEZ, Ms. COLLINS, Mr. BROWNBACK, Mr. JOHANNS, Mrs. BOXER, Mr. CARDIN, Mr. RISCH, Mrs. MURRAY, Mr. GRAHAM, Ms. LANDRIEU, Mr. SCHUMER, Mr. BOND, Mr. INHOFE, Ms. KLOBUCHAR, and Mr. COBURN):

S. 908. A bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. LEAHY, Ms. SNOWE, Ms. COLLINS, Mr. SPECTER, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. LEVIN, Ms. MIKULSKI, Mr. WHITEHOUSE, Mr. CARDIN, Ms. KLOBUCHAR, Mr. LIEBERMAN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. REED, Mr. NELSON of Florida, Mr. KERRY, Mr. BINGAMAN, Mr. DODD, Mr. BAYH, Mr. UDALL of Colorado, Mrs. SHAHEEN, Mr. HARKIN, Mr. BROWN, Mrs. MURRAY, Mr. CASEY, Mr. JOHNSON, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Ms. LANDRIEU, Ms. CANTWELL, and Mr. AKAKA)):

S. 909. A bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. MARTINEZ, and Mr. BROWN):

S. 910. A bill to amend the Emergency Economic Stabilization Act of 2008, to provide for additional monitoring and accountability of the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MERKLEY:

S. 911. A bill to amend the Truth in Lending Act to prohibit prepayment penalties, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MERKLEY:

S. 912. A bill to prohibit yield spread premiums, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 913. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. SPECTER:

S. 914. A bill to establish an independent Cures Acceleration Network agency, to sponsor promising translational research to bridge the gap between laboratory discoveries and life-saving therapies, to reauthorize the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. GILLIBRAND, and Mr. SCHUMER):

S. 915. A bill to improve port and intermodal supply chain security; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 916. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 917. A bill to provide assistance to Pakistan under certain conditions, and for other purposes; to the Committee on Foreign Relations.

By Mr. SCHUMER:

S. 918. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add New York to the New England Fishery Management Council, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 919. A bill to amend section 1154 of title 38, United States Code, to clarify the additional requirements for consideration to be afforded time, place, and circumstances of service in determinations regarding service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. VOINOVICH):

S. 920. A bill to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CARPER:

S. 921. A bill to amend chapter 35 of title 44, United States Code, to recognize the interconnected nature of the Internet and agency networks, improve situational awareness of Government cyberspace, enhance information security of the Federal Government, unify policies, procedures, and guidelines for securing information systems and national security systems, establish security standards for Government purchased products and services, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LIEBERMAN:

S. Res. 115. A resolution recognizing the crucial role of assistance dogs in helping wounded veterans live more independent lives, expressing gratitude to The Tower of Hope, and supporting the goals and ideals of creating a Tower of Hope Day; to the Committee on Veterans' Affairs.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. Res. 116. A resolution commending the Head Coach of the University of Kansas men's basketball team, Bill Self, for winning the Henry P. Iba Coach of the Year Award presented by the United States Basketball Writers Association and for being named the Sporting News National Coach of the Year and the Big 12 Coach of the Year; to the Committee on the Judiciary.

By Mr. BYRD:

S. Con. Res. 20. A concurrent resolution authorizing the last surviving veteran of the First World War to lie in honor in the rotunda of the Capitol upon his death; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. BURRIS, his name was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 423

At the request of Mr. AKAKA, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 475

At the request of Mr. BURR, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 518

At the request of Mr. CARDIN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 518, a bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes.

S. 527

At the request of Mr. THUNE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 527, a bill to amend the Clean Air act to prohibit the issuance of permits under title V of that Act for certain emissions from agricultural production.

S. 535

At the request of Mr. SESSIONS, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

At the request of Mr. NELSON of Florida, the names of the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 535, supra.

S. 541

At the request of Mr. DODD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 541, a bill to increase the borrowing authority of the Federal Deposit Insurance Corporation, and for other purposes.

S. 559

At the request of Mr. WYDEN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 559, a bill to provide benefits under the Post-Deployment/Mobilization Respite Absence program for certain periods before the implementation of the program.

S. 561

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 561, a bill to authorize a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

S. 599

At the request of Mr. CARPER, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 599, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any certain diseases is the result of the performance of such employee's duty.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 645

At the request of Mrs. LINCOLN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 645, a bill to amend title 32, United States Code, to modify the Department

of Defense share of expenses under the National Guard Youth Challenge Program.

S. 658

At the request of Mr. TESTER, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 658, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 663

At the request of Mr. NELSON of Nebraska, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 700

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 714

At the request of Mr. WEBB, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 714, a bill to establish the National Criminal Justice Commission.

S. 731

At the request of Mr. NELSON of Nebraska, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Idaho (Mr. RISCH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 731, a bill to amend title 10, United States Code, to provide for continuity of TRICARE Standard coverage for certain members of the Retired Reserve.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 781

At the request of Mr. ROBERTS, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 781, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 795

At the request of Mrs. LINCOLN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 795, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 828

At the request of Mr. HARKIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 828, a bill to amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes.

S. 831

At the request of Mr. KERRY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of nonregular service retired pay.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 835

At the request of Mr. BROWNBACK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 835, a bill to require automobile manufacturers to ensure that not less than 80 percent of the automobiles manufactured or sold in the United States by each such manufacturer to operate on fuel mixtures containing 85 percent ethanol, 85 percent methanol, or biodiesel.

S. 886

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 886, a bill to establish a program to provide guarantees for debt issued by State catastrophe insurance programs to assist in the financial recovery from natural catastrophes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for Mr. KENNEDY (for himself, Mr. LEAHY, Ms. SNOWE, Ms. COLLINS, Mr. SPECTER, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. LEVIN, Ms. MIKULSKI, Mr. WHITEHOUSE, Mr. CARDIN, Ms. KLOBUCHAR, Mr. LIEBERMAN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. REED, Mr. NELSON, of Florida, Mr. KERRY, Mr. BINGAMAN, Mr. DODD, Mr. BAYH, Mr. UDALL of Colorado, Mrs. SHAHEEN, Mr. HARKIN, Mr. BROWN, Mrs. MURRAY, Mr. CASEY, Mr. JOHNSON, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Ms. LANDRIEU, Ms. CANTWELL, and Mr. AKAKA)):

S. 909. A bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, hate crimes harm innocent victims, terrorize entire communities, and threaten the very fabric of our nation. They send a poisonous message that some Americans deserve to be victimized solely because of who they are or who they are perceived to be. Hate crimes offend the fundamental ideals on which Nation was founded. They can not be tolerated in any free society, and it is long past time to enact legislation to correct the deficiencies in the current federal hate crimes statute.

For far too long, law enforcement has been forced to investigate hate crimes with one hand tied behind its back. Now is the time to change this. This bill strengthens the Federal Government's ability to investigate and prosecute hate crimes. It removes the excessive restrictions currently existing in federal law. It offers Federal assistance for investigating and prosecuting hate crimes to State and local law enforcement. It provides training grants for local law enforcement to combat hate crimes committed by juveniles.

The first Federal hate crimes statute was passed over 40 years ago in 1968, soon after the assassination of Dr. Martin Luther King, Jr. It authorized the Federal Government to investigate and prosecute crimes committed against individuals because of their race, color, religion, or national origin. The original statute was a major advance in the march of progress, but it is now a generation out of date.

The time has come to stand up for all victims of hate crimes—victims like Matthew Shepard, for whom this bill is named. Matthew died a horrible death in 1998 at the hands of two men who singled him out because of his sexual orientation. Since Matthew's murder, his mother has worked courageously to make sure that we never forget the suffering that her son endured, and to remind Congress that it has a responsibility to protect individuals like her son. Yet today, more than 10 years after Matthew's death—10 years—we still have not modernized our hate crimes laws. How long are we going to wait?

The bill we are introducing today expands the current hate crimes statute

and gives Federal, State, local, and tribal authorities greater ability to investigate and prosecute hate crimes effectively. The bill closes flagrant loopholes in the current statute that prevent or undermine the prosecution of the individuals who commit these vicious crimes.

This bill broadens the original Federal hate crimes statute by prohibiting crimes based on a victim's actual or perceived sexual orientation, gender, gender identity, or disability.

According to FBI statistics, hate crimes based on sexual orientation make up approximately 17 percent of all hate crimes. Considering that gays and lesbians make up approximately 3 percent of the population, the FBI statistics suggest that gays and lesbians are victimized at a rate approximately 6 times higher than that of the average American. Research suggests that hate-motivated violence against gay, lesbian, bisexual, and transgender citizens is particularly extreme. As these statistics and the research make clear, hate crimes are a very real danger to gay, lesbian, bisexual, and transgender citizens. We must act—without further delay—to correct these unacceptable deficiencies in current law and protect all citizens from these brutal crimes.

Our bill also increases the Federal Government's ability to prosecute hate crimes. It removes the prerequisite that a victim be engaged in a ''federally protected activity'' before the Federal Government can prosecute an offender under the statute. This restrictive provision is outdated, unwise, and unnecessary, particularly when one considers the unjust outcomes that can result from limiting prosecution to offenders to target victims participating in one or more of the following 6 narrow categories of federally protected activity: attending or enrolling in a public school or public college; participating in a benefit, service, privilege, program, facility or activity administered by a state or local government; applying for or working in private or state employment; serving as a juror in a state court; using a facility of interstate commerce or a common carrier; or enjoying public accommodations or places of exhibition or entertainment. We know that individuals may be victimized while engaging in activities that are not included in this list of activities—they could be victims while engaging in routine activities, going about their normal day. Americans should be protected from hate crimes in everything they do. There should be no distinction between hate crimes occurring while a victim is engaged in a routine activity or one of the six specified federally protected activities described above.

This bill corrects a gap in the current hate crimes statute that limits prosecution to offenders who interfere with a victim's participation in certain federally protected activities. In June 2003, six Latino teenagers went to a family restaurant on Long Island. The teenagers knew one another from involvement in community activities and have come together to celebrate a birthday. As the group entered the restaurant, three men who were leaving the bar assaulted the teenagers, pummeling one boy and severing a tendon in his hand with a sharp weapon. During the attack, the men yelled racial slurs and one identified himself as a skinhead. Two of the men were tried under the current Federal hate crimes law and were acquitted. The jurors said they acquitted the offenders because the Government failed to prove that using a restaurant was a federally protected activity. The result in this case is just one example of the inadequate protections provided under current law. The bill we introduce today will eliminate the federally protected activity requirement and give jurors greater ability to convict all perpetrators of hate crimes.

The bill modernizes the Federal Government's ability to prosecute hate crimes, but it fully respects the primary role of state, local, and tribal law enforcement authorities in responding to hate crimes in their jurisdictions. The bill protects these local interests with a strict certification process, which requires the Federal Government to consult with state and local officials before prosecuting a Federal case. In accord with certification, it is our belief that the vast majority of hate crimes will continue to be prosecuted at the State and local level.

In addition, our bill authorizes the Justice Department to increase the number of Department personnel to prevent and respond to hate crimes. This increase will enable Federal authorities to develop the manpower necessary to act effectively to prevent and respond to hate crimes.

The bill also authorizes the Justice Department to provide needed investigative resources to state and local law enforcement during these challenging economic times. This expansion of federal assistance is meant to supplement, not supplant, the efforts of state and local law enforcement authorities, so that hate crimes can be effectively investigated and prosecuted in the future.

Hate crimes investigations tend to be expensive, requiring considerable law enforcement effort, and extensive use of grand juries. The bill expands the Justice Department's opportunity to provide support for these expenses. It authorizes the Attorney General to offer grants of up to $100,000 to help state, local, and tribal law enforcement officials manage the high costs of investigating and prosecuting hate crimes. It also authorizes the Justice Department to award grants to State, local, and tribal authorities for programs that combat hate crimes committed by juveniles, including programs designed to train local law enforcement officers in identifying, investigating, prosecuting and preventing hate crimes. These measures will help ensure that state and local authorities have the resources necessary to successfully combat and prosecute hate crimes.

Collecting data on hate crimes is important for analyzing crime trends and tailoring effective criminal policy. Our bill increases the Federal Government's ability to monitor hate crimes by requiring the FBI to increase the statistics it collects about such crimes. Currently, the FBI collects hate crimes data on race, religion, sexual orientation, ethnic background, and disability. Our bill requires the FBI to collect new statistics on hate crimes based on an individual's gender or gender-identity, and hate crimes committed by juveniles. By increasing the amount of data collected by the FBI, we will be able to better understand the gravity of the hate crimes committed in our communities.

Hate crimes are a festering problem, causing terror in neighborhoods across America. According to the most recent statistics released by the FBI, there were at least 9,527 victims of hate-motivated crimes in 2007. Based on that number, an average of 26 victims per day were terrorized as a consequence of their race, religion, sexual orientation, ethnic background, or disability. The FBI's statistics reveal that race-related hate crimes are the most common type of hate crimes, comprising approximately 50 percent of all hate crimes reported to the FBI. That said, crimes based on religion, sexual orientation, and ethnic background occur with alarming frequency as well.

These hate crimes statistics are disturbing, but they represent only the tip of the iceberg of hate crimes occurring in America. The Southern Poverty Law Center, the Human Rights Campaign, and the US Bureau of Justice Statistics agree that the FBI's hate crimes numbers do not reflect the actual number of hate crimes occurring in our communities each year. The Southern Poverty Law Center estimates that the annual number of hate crimes committed in the U.S. is close to 50,000. In addition, the Human Rights Campaign states that a hate crime occurs every 6 hours. Survey data from the Bureau of Justice Statistics' biannual National Crime Victimization Survey estimates that an average of 191,000 hate crime victimizations take place each year. Based on this survey, over 540 people are victimized each day, based on their race, religion, sexual orientation, ethnic background, or disability—more than 22 victims per hour. These statistics are not just shocking—they are shameful. It is time for Congress to specifically address the serious problem of hate crimes in America.

In addition to the legal impact of this bill, its symbolic impact is equally important. This bill emphasizes the devastatingly unique nature of hate crimes. It says we recognize that hate crimes provide aggressors with the means to attack an entire community

through a single act of violence, and send a message of fear that vastly transcends the immediate crime and its victim. It shows we understand that hate crime offenders should be prosecuted for committing a crime against an entire community. After so many years of inaction, we in Congress have an obligation to demonstrate that we understand how hate crimes affect our nation's communities.

It takes only a brief survey of any major news outlet to find horrifying stories of hate crimes and the inability of law enforcement to prosecute offenders for their acts of hate. The 1999 murder of four women in Yosemite National Park graphically illustrates the need to include gender in our hate crimes statute. These four women were murdered by a man who admitted having fantasized about killing women for most of his life. These women lost their lives for one reason—because they were women. We need to send a clear message that we will not accept such acts of hate. Without this bill, however, such a crime cannot be federally prosecuted as a hate crime.

Gender identity must also be included in our definition of those characteristics protected by a hate crimes statute. Many are familiar with the story of Brandon Teena, who was raped and beaten in Humboldt, Nebraska in 1993 by two male friends after they discovered that he was living as a male but was anatomically female. The local sheriff refused to arrest the offenders, and they later shot and stabbed Brandon to death.

A more recent, less well-known incident occurred when Fred C. Martinez Jr., a Navajo transgender youth, was murdered while walking home from a party. Fred was killed for one reason alone—because he was a transgender youth. By passing this bill, the Senate will send a strong message that hate crimes based on sexual identity are unacceptable and perpetrators of such crimes will face tough criminal penalties under Federal law.

Hate crimes against disabled Americans are very disturbing and deserve protection at the Federal level as well. In October 2002, two deaf girls, one of whom was wheelchair bound due to cerebral palsy, were harassed and sexually assaulted by four suspected gang members in a local park. The girls were attacked because they were disabled and unable to defend themselves. Although the alleged perpetrators were prosecuted, the assaults could not be charged as hate crimes because no State or Federal protections for disability-based hate crimes existed in Federal or State law. This must change.

These are only a few examples of the hate perpetrated against individuals in America based on their sexual orientation, gender, gender identity, and disability. We can no longer allow any of these communities to live in fear. Crimes based on an individual's sexual orientation, gender, gender identity, or disability must be prosecuted for what they are—crimes of hate.

Individuals should not only be protected from hate crimes because of their actual characteristics; they must also be protected from hate crimes based on the inaccurate perceptions of others. Last year in Brooklyn, New York, Jose Sucuzhanay was walking arm in arm with his brother, Romel Sucuzhanay, after attending a church party. According to officials, about half a block from Jose's home, a black sports utility vehicle drove by and the two men in the vehicle began shouting what witnesses described as vulgarisms against Hispanics and gay men. The car stopped and one of the two men approached Jose and smashed a beer bottle over the back of his head. The other man then took an aluminum baseball bat from the rear of the vehicle and repeatedly struck Jose on his shoulder, ribs, and back. Once Jose fell to the ground, he received several full-forced, crushing blows to his head with the aluminum baseball bat. Jose, a father of two and local real estate agent, died 5 days later because of the hate-motivated attack. He did not deserve to lose his life because he was perceived to be gay. That is why the bill we are introducing today criminalizes crimes based on the perceived characteristics of a victim.

We also know that hate crimes covered by current Federal law—based on race, religion, national origin, and color—still occur and must be prosecuted. Following the 2008 presidential election, three men in New York went on a rampage attacking African-American residents of Staten Island in response to the historic election of President Barack Obama. The men attacked one 17-year-old African-American man with a metal pipe and collapsible baton. They attacked another African-American man by pushing him to the ground. They assaulted still another man, whom they mistakenly believed was African-American, by mowing him down with a car while yelling racial epithets at him. Clearly, this demonstrates that race-based violence is continuing at an unacceptable level, and we must act to help law enforcement more vigorously deal with hate crimes.

Hate crimes legislation has the support of President Obama, a majority of Congress, 26 State Attorneys General, and a broad coalition of law enforcement, civic, religious, and civil rights groups. Recent history shows that Congress is ready to make hate crimes legislation into law. In 2007, the Senate voted 60 to 39 in support of a similar hate crimes bill. An equally powerful statement was made by the House when it voted 237 to 180 for the hate crimes bill introduced that year. As a Senator, President Obama voted to support hate crimes legislation. Now, as President, he has included the expansion of hate crimes in his civil rights agenda. The political will of our Nation is clear—it is time for this bill to become law.

Over 300 law enforcement, civil rights, civic, and religious organizations have endorsed our bill, including the International Association of Chiefs of Police, the National District Attorneys Association, the National Sheriffs Association, the Police Executive Research Forum, the Leadership Conference on Civil Rights, the Anti-Defamation League, the Human Rights Campaign, and the Interfaith Alliance. All these diverse groups have come together to say that now is the time for us to protect our fellow citizens from the brutality of hate-motivated violence. They strongly support this legislation because they know it is a balanced and sensible approach that will bring greater protection to our citizens, along with much-needed resources for local and State law enforcement fighting hate crimes.

Passing this bill will send a message, loud and clear, that those who victimize individuals because of their race, color, religion, national origin, sexual orientation, gender, gender identity, or disability will go to prison. In addition, passing this bill will provide Federal, State, local, and tribal authorities with stronger means to prosecute crimes of hate. It has been over 10 years since Matthew Shepard was left to die on a fence in Wyoming because of who he was. It has also been 10 years since this bill was initially considered by Congress. In those 10 years, we have gained the political and public support that is needed to make this bill become law. Today, we have a President who is prepared to sign hate crimes legislation into law, and a Justice Department that is willing to enforce it. We must not delay the passage of this bill. Now is the time to stand up against hate-motivated violence and recognize the shameful damage it is doing to our Nation.

Mr. LEAHY. Mr. President, this is National Crime Victims' Rights Week—a time when communities in Vermont and across the Nation recognize the needs of crime victims, and work together to promote victims' rights and services. There is no more important time than now to renew our commitment to address the needs of crime victims and their families.

Today, I am pleased to join Senator KENNEDY, Senator COLLINS, and more than 30 other Senators from both sides of the aisle to reintroduce the Matthew Shepard Hate Crimes Prevention Act of 2009. This is a bipartisan bill designed to combat crimes that have long terrorized communities and remain a serious problem in this country. This legislation is a matter of simple justice. It is past time for Congress to enact this bill and strengthen the Federal Government's role in preventing and punishing crimes motivated by hate.

I commend Senator KENNEDY for his leadership over the last decade in working to expand our Federal hate crimes law, and I am proud to once again be an original cosponsor of this legislation. A bipartisan majority of

the Members in the House of Representatives voted to pass this legislation in the last Congress. Unfortunately, there were partisan attempts to filibuster and prevent passage of the Senate bill. The measure was ultimately attached to the Department of Defense Authorization bill with the bipartisan support of 60 Senators. While I am disappointed that the hate crime provision was taken out of that bill at conference, I am hopeful that our efforts to enact this civil rights measure into law will be successful this year.

Violent crimes motivated by prejudice and hate are tragedies that haunt American history. From the lynchings that plagued race relations for more than a century, to the well-publicized slayings of Matthew Shepard and James Byrd, Jr., in the 1990s, this is a story that we have heard too often in this country. Unfortunately, in my home state of Vermont, there have been two attacks in recent years that appear to have been motivated by the victims' religion or sexual orientation.

Perhaps the most persuasive evidence that hate crimes are becoming more prevalent and more nationalized is a leaked copy of the Department of Homeland Security report on violent extremism in the United States. The report is nothing short of chilling.

The DHS report found that ''the economic downturn and the election of the first African American president present unique drivers for rightwing radicalization and recruitment'' and these elements in turn have the potential to drive hate groups to carry out violence. It also found that anti-immigrant fervor by organized hate groups ''has the potential to turn violent.'' The DHS report concluded that the ''advent of the Internet'' has potentially made ''extremist individuals and groups more dangerous and the consequences of their violence more severe.''

Of course, these findings comport with a recent Southern Poverty Law Center, SPLC, report on hate group activity in the United States entitled ''The Year in Hate.'' The SPLC repot found that activity by known domestic hate groups has increased by 50 percent since 2000, from 602 hate groups in 2000, to 926 hate groups in 2008. The recent and rapid growth in hate group activity is simply astonishing.

It remains painfully clear that as a Nation, we still have serious work to do in protecting all Americans from these crimes and in ensuring equal rights for all our citizens. While the answer to hate and bigotry must ultimately be found in increased tolerance, strengthening our Federal hate crimes laws is a step in the right direction.

The Matthew Shepard Hate Crimes Prevention Act of 2009 improves existing law by making it easier for Federal authorities to investigate and prosecute crimes based on race, color, religion, and national origin. Victims will no longer have to engage in a narrow range of activities, such as serving as a juror, to be protected under Federal law. This bill also expands Federal protections to include the problem of hate crimes committed against people because of their sexual orientation, gender, gender identity, or disability, which is a key and long-overdue expansion of protection. Finally, this bill provides assistance and resources to state, local, and tribal law enforcement to address hate crimes.

This bill strengthens Federal jurisdiction over hate crimes as a back-up, but not a substitute, for state and local law enforcement. States will still bear primary responsibility for prosecuting most hate crimes, which is important to me as a former state prosecutor. In a sign that this legislation respects the proper balance between Federal and local authority, it has received strong bipartisan support from state and local law enforcement organizations across the country.

Moreover, this bill accomplishes the critically important goal of protecting all of our citizens without compromising our constitutional responsibilities. It is a tool for combating acts and threats of violence motivated by hatred and bigotry. But it does not target pure speech, however offensive or disagreeable. The Constitution does not permit us in Congress to prohibit the expression of an idea simply because we disagree with it. To paraphrase Justice Oliver Wendell Holmes, the Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought that we hate. I am devoted to that principle, and I am confident that this bill does not contradict it.

We crafted this legislation after long and thoughtful consultation with many of the advocates who work so hard to promote civil rights and with Justice Department attorneys in the field who work on hate crimes prosecutions every day. It contains changes to Federal hate crime law that will improve the law's operation and implementation. I want to thank the Leadership Conference on Civil Rights, Human Rights First, and the more than 300 law enforcement, civil rights, religious, and other professional organizations for their assistance with and support for this legislation, and for their tireless work on behalf of hate crimes victims in the United States.

The crimes targeted in this bill are particularly pernicious crimes that affect more than just their victims and those victims' families. They inspire fear in those who have no connection to the victim other than a shared characteristic such as race or sexual orientation. That is wrong. All Americans have the right to live, travel and gather where they choose. In the past we have responded as a Nation to deter and to punish violent denials of civil rights. We have enacted Federal laws to protect the civil rights of all of our citizens for nearly 150 years.

The Matthew Shepard Hate Crimes Prevention Act continues that great and honorable tradition, and brings us one step closer towards ensuring an America that values tolerance and protects all of its people. I hope all Senators will support passing this important bipartisan bill this year.

Mrs. FEINSTEIN. I wish today to support the Matthew Shepard Hate Crimes Prevention Act of 2009. I want to thank and commend my friend and colleague, Senator KENNEDY, for his leadership and dedication on this important issue. It is long past time that we move to bring existing Federal hate crimes law into the 21st century.

I have been an original cosponsor of the Hate Crimes Prevention Act since it was first introduced in the Senate over a decade ago.

And I am proud to join today with my colleagues—Senators KENNEDY, LEAHY, SPECTER, COLLINS, SNOWE, SCHUMER, DURBIN, and others—to reintroduce this legislation, which will once and for all send a message: We will no longer turn a blind eye to hate crimes in this country.

This legislation is a crucial step toward prosecuting crimes directed at thousands of individuals who are the targets of brutal and senseless violence.

The current Federal hate crimes law simply does not go far enough. It covers only crimes motivated by bias on the basis of race, color, religion or national origin.

This bill improves the current Federal hate crime law by including crimes motivated by gender, gender identity, sexual orientation, and disability.

Specifically, the Matthew Shepard Crimes Prevention Act of 2009 expands on the 1968 definition of a hate crime.

Under current Federal law, hate crimes only cover attacks based on race, color, religion, and national origin.

Under the proposed bill, hate crimes will include: gender, gender identity, sexual orientation, and disability.

The bill enables States, local jurisdictions, and Indian tribes to apply for Federal grants in order to solve hate crimes and provides Federal agents with broader authority to aid State and local police.

Additionally, the bill amends the Hate Crime Statistics Act to allow law enforcement agencies to gather additional data on violent crimes committed out of hate.

The bill also includes a ''Rule of Construction'' to ensure that it does not intrude on first amendment protected rights to freedom of speech.

I believe that it is time for Congress to expand the ability of the Federal Government to investigate and prosecute anyone who would target victims because of hate. In States that have already enacted hate crimes laws, the Federal Government must provide the resources to ensure that those crimes do not go unpunished. We can and must do more.

Across the Nation, horrific instances of violence are occurring that this bill

would work to fight against. I would like to share just a few examples:

In February 2008 in Oxnard, CA, Lawrence ''Larry'' King, a 15-year-old boy was shot and killed by a fellow classmate at his junior high school. Larry, who had told his classmates he was gay, had long been harassed and bullied at school. The way he was treated is unacceptable, and his death was a tragic and poignant reminder of why it is so important to stop bullying and violence in our schools.

In Laurel, DE, earlier this month, three teenagers were charged with robbing and assaulting a 31-year-old developmentally disabled man. The victim was walking home one Friday evening from his brother's house in the Laurel Village Mobile Home Park and was dragged into a wooden area, beaten, and robbed of his wallet and keys. The victim's mother later found him and took him to the hospital where he was treated for a concussion.

Lastly, one of the most well-known cases in California happened in West Hollywood to actor Trev Broudy in 2002. The night of the attack, Trev Broudy was hugging a man on a street. Three men with a baseball bat savagely attacked the actor and left him in a coma for approximately 10 weeks. As a result of the attack, Trev suffered brain damage, lost half of his vision, and has experienced trouble hearing.

The crimes are brutal. The attackers targeted their victims because of who they are. Yet, none of these crimes can be prosecuted as a Federal hate crime.

These are not isolated instances.

These crimes occur all too often.

According to the latest FBI statistics, there were almost 7,700 hate crime incidents in the United States in 2007. Of those, 1,789 occurred in California, with 15 percent of those based on sexual orientation.

Nationally, approximately 50.8 percent were motivated by racial bias, 18 percent were motivated by religious bias, 17 percent were motivated by sexual orientation, and 13.2 percent were motivated by ethnicity or national origin bias. One percent involved a bias against a disability.

Even more disturbing is the fact that these FBI statistics show only a fraction of the problem because so many hate crimes are unreported.

The Southern Poverty Law Center, a nonprofit organization located in Montgomery, AL and internationally known for its tolerance education programs, estimates that the actual number of hate crimes committed in the United States each year is closer to 50,000 as opposed to the nearly 8,000 cases reported to the FBI.

A close analysis of hate crimes rates demonstrates that groups that are now covered by current laws—such as African Americans, Muslims, and Jews, report similar rates of hate crimes victimizations as gays and lesbians—who are not currently protected.

Every person's life is valuable. Congress must act to protect every individual who is targeted simply because of who they are.

We must also stop the way that hate crimes terrorize communities. When people are targeted because of who they are, they often live in fear and communities suffer from tension and a lack of trust. These are crimes that damage our social fabric, and we must send a clear message that we cannot tolerate this kind of intimidation in the United States.

This is not a new bill. It was first introduced in 1998. It has passed the Senate numerous times: in 2000, 2002, and 2004 as an amendment to the Department of Defense, Authorization bill. It has also passed the House in 2007 as a stand-alone bill and in 2006 as an amendment to the Adam Walsh Act. But still, it has not been enacted into law.

In addition, last Congress, this body passed this legislation favorably as an amendment to the Defense authorization bill, but the amendment was removed from the final version of the bill that the President signed.

This legislation is bipartisan and has broad coalition support. It is supported by 26 State attorneys general and over 300 law enforcement, professional, educational, civil rights, religious, and civic organizations.

I hope that my colleagues will join me in supporting it and working to enact it into law in this Congress.

Let us send a message to all Americans that we will not turn a blind eye to hate crimes and will instead support the values of tolerance and community that unite us as Americans.

By Mr. MERKLEY:

S. 911. A bill to amend the Truth in Lending Act to prohibit prepayment penalties, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, I am introducing two pieces of legislation to address the very heart of our economic crisis—the housing market and the deceptive lending practices that have placed millions of homes at risk of foreclosure.

In the last few years, millions of families were led into unsustainable home mortgages that pushed our country into an economic crisis unprecedented in our lifetimes. Instead of fulfilling a dream and contributing to a secure financial future, home mortgages have too often become a check for stripping wealth from working Americans.

These two bills, the Transparency for Homeowners Act, S. 911, and the Promoting Mortgage Responsibility Act, S. 912, will put an end to deceptive and unfair mortgage practices that played a pivotal role in tricking American families to accept risky and unsustainable mortgages.

Two key factors drew families into these mortgages that paved the way for this recession. First, steering payments.

Steering payments were paid to brokers who enticed unsuspecting homeowners into deceptive and expensive mortgages. These secret bonus payments, often called yield spread premiums, turned home mortgages into a scam. A family would go to a mortgage broker to get advice in getting the best possible loan. The family would trust the broker to give advice because, quite frankly, they were paying the broker for that service. But what the borrower did not realize is that the broker would earn thousands of bonus dollars from the lender if the broker could convince the homeowner to take out a high-priced mortgage, such as one with an exploding interest rate, rather than a plain vanilla 30-year fixed rate mortgage.

The second factor is prepayment penalties. Prepayment penalties added insult to injury. After the homeowners realized they had been steered into an unsustainable mortgage, they soon discovered that a large prepayment penalty made it too costly for them to refinance to a more affordable loan. They were locked into that first destructive loan they did not fully understand when it was presented.

This scam has had a tremendous impact. A study for the Wall Street Journal found that 61 percent of the subprime loans that originated in 2006—that is 61 percent that originated in 2006—went to families who qualified for prime loans. More than half the borrowers who qualified for a prime loan ended up with a subprime loan because of these steering payments, putting millions of American families at risk. This is simply wrong—a publicly regulated process designed to create a relationship of trust between families and brokers but that leaves borrowers unaware of payments that take place, putting them into expensive and destructive mortgages.

I call your attention to a New York Times editorial published on April 9 entitled ''Predatory Brokers.'' This editorial highlighted the problem. The Times concluded that:

> The first step must be to outlaw the kickbacks that lenders pay brokers for steering clients into costlier loans.

The editorial went on to say that:

> The most clearly unethical form of payment is the so-called yield-spread premium.

My friends, it is difficult to overstate the damage that has been done by these practices. An estimated 20,000 Oregon families will lose their homes to foreclosure in 2009. Nationwide, an estimated 2 million families will lose their homes this year. And the total of foreclosed families is predicted to reach 9 million by 2012.

The legislative solutions I propose are very simple. The bills I am introducing today will ensure these practices do not again haunt the mortgage business in America. First, the Transparency For Homeowners Act ends the secret steering payments to lenders who lead homeowners into deceptive mortgages they cannot afford over the long term. Second, the Promoting Mortgage Responsibility Act prohibits

lenders from issuing costly financial penalties that prevent homeowners from refinancing into a more affordable loan.

It is simple: an end to steering payments and an end to prepayment penalties. We should recognize that not only have these practices damaged the financial foundations for our families and millions of families at the retail level—turning the American dream of home ownership into an American nightmare—but these practices, which resulted in a huge surge in subprime lending, set the stage for the disaster that would come and is still unfolding on Wall Street and crippling economies around the world.

My legislation will restore transparency to the mortgage lending process and help make home ownership a stable investment for families once again. The time has come for us to make sure that secret steering payments and paralyzing prepayment penalties never again haunt American families. Let us restore the American dream of home ownership.

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 913. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

Mr. CORNYN. Mr. President, I rise to introduce the Workforce Health Improvement Program Act of 2009, otherwise known as the WHIP Act. This bipartisan bill I introduce today is the same legislation I introduced in the 110th Congress. I am very pleased to be joined again by my good friend and colleague, Senator TOM HARKIN, who shares my commitment to helping keep America fit.

Public health experts unanimously agree that people who maintain active and healthy lifestyles dramatically reduce their risk of contracting chronic diseases. And as the government works to reign in the high cost of health care, it is worth talking about what we all can do to help ourselves. As you know, prevention is key, and exercise is a primary component in the prevention of many adverse health conditions that can arise over one's lifetime. A physically fit population helps to decrease health-care costs, reduce governmental spending, reduce illnesses, and improve worker productivity.

According to the Centers for Disease Control and Prevention, CDC, the economic cost alone to businesses in the form of health insurance and absenteeism is more than $15 billion. Additionally, the CDC estimates that more than ⅓ of all US adults fail to meet minimum recommendations for aerobic physical activity based on the 2008 Physical Activity Guidelines for Americans. With physical inactivity being a key contributing factor to overweight and obesity, and adversely affecting workforce productivity, we quite simply need to do more to help employers encourage exercise.

Given the tremendous benefits exercise provides, I believe Congress has a duty to create as many incentives as possible to get Americans off the couch, up, and moving.

With this in mind, I am introducing the WHIP Act.

Current law already permits businesses to deduct the cost of on-site workout facilities, which are provided for the benefit of employees on a pretax basis. But if a business wants or needs to outsource these health benefits, they and/or their employees are required to bear the full cost. In other words, employees who receive off-site fitness center subsidies are required to pay income tax on the benefits, and their employers bear the associated administrative costs of complying with the IRS rules.

The WHIP Act would correct this inequity in the tax code to the benefit of many smaller businesses and their employees. Specifically, it would provide an employer's right to deduct up to $900 of the cost of providing health club benefits off-site for their employees. In addition, the employer's contribution to the cost of the health club fees would not be taxable income for employees—creating an incentive for more employers to contribute to the health and welfare of their employees.

The WHIP Act is an important step in reversing the largely preventable health crisis that our country is facing, through the promotion of physical activity and disease prevention. It is a critical component of America's health care policy: prevention. It will improve our Nation's quality of life by promoting physical activity and preventing disease. Additionally, it will help relieve pressure on a strained health care system and correct an inequity in the current tax code.

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. 913

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 ''Workforce Health Improvement Program Act of 2009''.

SEC. 2. EMPLOYER-PROVIDED OFF-PREMISES HEALTH CLUB SERVICES.

(a) TREATMENT AS FRINGE BENEFIT.—Subparagraph (A) of section 132(j)(4) of the Internal Revenue Code of 1986 (relating to on-premises gyms and other athletic facilities) is amended to read as follows:

''(A) IN GENERAL.—Gross income shall not include—

''(i) the value of any on-premises athletic facility provided by an employer to its employees, and

''(ii) so much of the fees, dues, or membership expenses paid by an employer to an athletic or fitness facility described in subparagraph (C) on behalf of its employees as does not exceed $900 per employee per year.''.

(b) ATHLETIC FACILITIES DESCRIBED.—Paragraph (4) of section 132(j) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN ATHLETIC OR FITNESS FACILITIES DESCRIBED.—For purposes of subparagraph (A)(ii), an athletic or fitness facility described in this subparagraph is a facility—

''(i) which provides instruction in a program of physical exercise, offers facilities for the preservation, maintenance, encouragement, or development of physical fitness, or is the site of such a program of a State or local government,

''(ii) which is not a private club owned and operated by its members,

''(iii) which does not offer golf, hunting, sailing, or riding facilities,

''(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

''(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.''.

(c) EXCLUSION APPLIES TO HIGHLY COMPENSATED EMPLOYEES ONLY IF NO DISCRIMINATION.—Section 132(j)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Paragraphs (1) and (2) of subsection (a)'' and inserting ''Subsections (a)(1), (a)(2), and (j)(4)'', and

(2) by striking the heading thereof through ''(2) APPLY'' and inserting ''CERTAIN EXCLUSIONS APPLY''.

(d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN ATHLETIC FACILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 274(a) of the Internal Revenue Code of 1986 (relating to denial of deduction for club dues) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to so much of the fees, dues, or membership expenses paid to athletic or fitness facilities (within the meaning of section 132(j)(4)(C)) as does not exceed $900 per employee per year.''.

(2) CONFORMING AMENDMENT.—The last sentence of section 274(e)(4) of such Code is amended by inserting ''the first sentence of'' before ''subsection (a)(3)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. SPECTER:

S. 914. A bill to establish an independent Cures Acceleration Network agency, to sponsor promising translational research to bridge the gap between laboratory discoveries and life-saving therapies, to reauthorize the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, the bill that I am introducing today would authorize the establishment of the Cures Acceleration Network, CAN. This new $2 billion agency would provide funds to translate research discoveries from the bench to the bedside and would operate as an independent agency. It would not be part of the Department of Health and Human Services. The CAN would make awards outside of the traditional funding stream to accelerate the development of cures and treatments including but not limited to drugs, devices, and behavioral therapies. The CAN would have a flexible expedited review process to get monies into the hands of the grantees as quickly as possible. These development

funds would complement the research dollars provided to the National Institutes of Health, NIH, and would not compete or take monies away from the NIH.

The bill also would raise the authorization level of the National Institutes of Health to $40 billion in fiscal year 2010, elevate the Center for Minority Health and Health Disparities to Institute status, and implement a new conflict-of-interest provision.

While the NIH funds much of the basic biomedical research at universities across the country, the CAN would take those findings found through basic research and provide funding to fill the gap between laboratory discoveries and life-saving medical therapies. This funding gap—often referred to as ''the valley of death'' arises after Federal basic-science support ends and before investors are willing to commit to a promising discovery. Very often finding funds to fill this gap is a daunting challenge, especially during a period of economic downturn, when investors have fewer resources to invest. This has had a severe impact on America's biotechnology industry.

The need for the CAN is clear: Capital raised by America's biotechnology companies fell 55 percent in 2008 compared to 2007. Also relative to 2007, 90 percent of small public biotechnology companies are now operating with less than 6 months of cash on hand. In the last 5 months alone, at least 24 U.S. public biotech companies have either placed drug development programs on hold or cut programs altogether. These companies have postponed clinical trials to treat melanoma, cervical cancer, lupus, chemotherapy side effects for breast cancer patients, multiple sclerosis, diabetes and atherosclerosis, drug trials to treat non-Hodgkin's lymphoma, testing of pandemic flu vaccine, trials to treat plaque psoriasis and heart disease, and a treatment for mesothelioma.

In short, without adequate funding—these companies will be unable to take these products to the development stage, the basic research done by the NIH will be lost, and many patients will die waiting for drugs and devices to give them a better quality of life.

The CAN would fund two types of grant awards, each with an authorization of $1 billion in the first year and additional funds in succeeding fiscal years.

The Cures Acceleration Grant Awards will provide grant awards of up to $15 million per year per project with out-year funding available. These awards would be available to applicants who do not have access to private matching funds.

The Cures Acceleration Partnership Awards also would provide grants for up to $15 million per year per project with additional funds available in the out-years. However, grant awards would require a match of three Federal dollars to one grantee dollar, as a way to partially offset development costs.

For both grant types, the CAN Board may waive the award limitation as well as modify the matching requirement.

Eligible grantees would include public or private entities such as institutions of higher education, medical centers, biotechnology companies, universities, patient advocacy organizations, pharmaceutical companies and academic research institutions.

To provide for expedited FDA approval, the grantees must also establish protocols that comply with FDA standards to meet regulatory requirements at all stages of development, manufacturing, review, approval and safety surveillance of a medical product.

The provisions of the Bayh-Dole Act would apply.

The CAN grant proposals would be evaluated by a 24-member board comprised of experienced individuals of distinguished achievement, and representative of a broad range of disciplinary interests including: venture capitalists and business executives with experience in managing scientific enterprises; scientists with expertise in the fields of basic research, biopharmaceuticals, drug discovery, drug delivery of medical products, bioinformatics, gene therapy or medical instrumentation, regulatory review and approval of medical products; and representatives of patient advocacy organizations.

The Chairman and Vice Chairman of the CAN shall be appointed by the President with the advice and consent of the Senate. The term of office of each member of the Board shall be 2 years. The CAN board also will include ex-officio members representing the National Institutes of Health, the Food and Drug Administration and the Department of Defense, the Department of Veterans Affairs and the National Science Foundation. The CAN board will meet four times each calendar year, with 12 board members and representatives of the ex-officio members present at each meeting. The board will be supported by an executive director and other employees that the Board deems necessary to ensure efficient operation of the CAN.

The Chairman of the CAN shall have authority to enter into an interagency agreement with the Center for Scientific Review at the National Institutes of Health to utilize advisory panels to review applications, and to make recommendations to the CAN.

The increases that have been made in medical research over the past 20–30 years have dramatically improved the survival rates for many diseases—deaths from coronary artery disease declined by 18 percent between 1994 and 2004. Stroke deaths also fell by 24.2 percent during that same time period. The five-years survival rates for Hodgkin's lymphoma have increased from 4 percent in the 1960s to more than 86 percent today. Survival rates for localized breast cancer have increased from 80 percent in the 1950s to 98 percent today. Over the past 25 years, survival rates for prostate cancer have increased from 69 percent to almost 99 percent. So we are seeing real progress. But for many other maladies, the statistics are not so good.

These medical advances do not happen overnight. It takes time and money for research institutions to develop scientists skilled in the latest research techniques and to develop the costly infrastructure where research takes place.

Regrettably, Federal funding for NIH has steadily declined from the $3.8 billion increase provided in 2003—when the 5-year doubling of that agency was completed. Had we provided sustained increases of $3.5 billion per year, plus inflation since 2003, we would have $23 billion more in funding for today. The shortfall due to inflationary costs alone is $5.2 billion. This flagging investment in medical research, many believe, served to discourage bright young investigators from entering this field of study.

The $10 billion for the National Institutes of Health that was included in stimulus package provided an immediate infusion of new research dollars for medical research. While these funds will only make up for a portion of what was lost since 2003, it is a step in the right direction. But much remains to be done. Additional dollars must be found for the 2010 appropriation and beyond.

The $40 billion contained in the legislation that I am introducing today will help to re-energize our investment in medical research, support a new generation of young scientists and invest in the health of our Nation.

The bill also contains a provision which requires the Director of NIH to enforce conflict-of-interest policies, requiring primary investigators with financial interests to provide a detailed report how the grant recipient will manage the investigator's conflict-of-interest.

The legislation also elevates the National Center for Minority Health and Health Disparities to Institute status, a designation that will lead to more resources to address the health status of minority and other medically underserved communities.

While some might argue that at a time when our economy is struggling we cannot afford to invest more in medical research. The fact is that research offers the only hope of saving lives, allowing our citizens to lead longer, more productive lives and saving billions of dollars in health care cost. To those critics I would say we cannot afford not to invest in medical research. This is not simply good social policy; it is good economic policy as well.

Mr. President, I ask unanimous consent that the text of the bill and a list of supporters be printed in the RECORD.

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

S. 914

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 ''Cures Acceleration Network and National Institutes of Health Reauthorization Act of 2009''.

SEC. 2. CURES ACCELERATION NETWORK.

(a) DEFINITIONS.—In this section—

(1) the term ''medical product'' means a drug, device, biological product, or product that is a combination of drugs, devices, and biological products;

(2) the terms ''drug'' and ''device'' have the meanings given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act; and

(3) the term ''biological product'' has the meaning given such term in section 351 of the Public Health Service Act.

(b) ESTABLISHMENT OF THE CURES ACCELERATION NETWORK.—There is established an independent agency to be known as the Cures Acceleration Network (referred to in this section as ''CAN''), which shall—

(1) be under the direction of a CAN Review Board (referred to in this section as the ''Board''), described in subsection (d); and

(2) award grants and contracts to eligible entities, as described in subsection (e), to accelerate the development of cures and treatments of diseases, including through the development of medical products and behavioral therapies.

(c) FUNCTIONS.—The functions of the CAN are to—

(1) identify and promote revolutionary advances in basic research, translating scientific discoveries from bench to bedside;

(2) award grants and contracts to eligible entities;

(3) provide the resources through grants and contracts necessary for independent investigators, research organizations, biotechnology companies, academic research institutions, and other entities to develop medical products for the treatment and cure of diseases and disorders;

(4) reduce the barriers between laboratory discoveries and clinical trials for new therapies;

(5) facilitate priority review in the Food and Drug Administration for the medical products funded by the CAN; and

(6) accept donations, bequests, and gifts to the CAN.

(d) CAN BOARD.—

(1) ESTABLISHMENT.—There is established a Cures Acceleration Network Review Board (referred to in this section as the ''Board''), which shall direct the activities of the Cures Acceleration Network.

(2) MEMBERSHIP.—

(A) IN GENERAL.—

(i) APPOINTMENT.—The Board shall be comprised of 24 members who are appointed by the President and who serve at the pleasure of the President.

(ii) CHAIRPERSON AND VICE CHAIRPERSON.—The President, by and with the advice and consent of the Senate, shall designate, from among the 24 members appointed under clause (i), one Chairperson of the Board (referred to in this section as the ''Chairperson'') and one Vice Chairperson.

(B) TERMS.—

(i) IN GENERAL.—Each member shall be appointed to serve a 4-year term, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(ii) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board, and may not serve more than 2 such terms consecutively.

(C) QUALIFICATIONS.—

(i) IN GENERAL.—The President shall appoint individuals to the Board based solely upon the individual's established record of distinguished service in one of the areas of expertise described in clause (ii). Each individual appointed to the Board shall be of distinguished achievement and have a broad range of disciplinary interests.

(ii) EXPERTISE.—The President shall select individuals based upon the following requirements:

(I) For each of the fields of—

(aa) basic research;

(bb) medicine;

(cc) biopharmaceuticals;

(dd) discovery and delivery of medical products;

(ee) bioinformatics and gene therapy;

(ff) medical instrumentation; and

(gg) regulatory review and approval of medical products,

the President shall select at least 1 individual who is eminent in such fields.

(II) At least 4 individuals shall be recognized leaders in professional venture capital or private equity organizations and have demonstrated experience in private equity investing.

(III) At least 8 individuals shall represent disease advocacy organizations.

(3) EX-OFFICIO MEMBERS.—

(A) APPOINTMENT.—In addition to the 24 Board members described in paragraph (2), the President shall appoint as ex-officio members of the Board—

(i) a representative of the National Institutes of Health, recommended by the Secretary of the Department of Health and Human Services;

(ii) a representative of the Office of the Assistant Secretary of Defense for Health Affairs, recommended by the Secretary of Defense;

(iii) a representative of the Office of the Under Secretary for Health for the Veterans Health Administration, recommended by the Secretary of Veterans Affairs;

(iv) a representative of the National Science Foundation, recommended by the Chair of the National Science Board; and

(v) a representative of the Food and Drug Administration, recommended by the Commissioner of Food and Drugs.

(B) TERMS.—Each ex-officio member shall serve a 3-year term on the Board, except that the Chairperson may adjust the terms of the initial ex-officio members in order to provide for a staggered term of appointment for all such members.

(4) RESPONSIBILITIES OF THE BOARD.—The Board shall—

(A) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's duties; and

(B) review applications for grants and contracts under subsection (e) and make recommendations to the Chairperson.

(5) AUTHORITY OF THE CHAIRPERSON.—The Chairperson may—

(A) prescribe regulations regarding the manner in which the Chairperson's duties shall be carried out, as the Chairperson determines necessary;

(B) appoint employees, subject to civil service laws, as necessary to carry out the Chairperson's functions;

(C) define the duties, and supervise and direct the activities, of any employees appointed under subparagraph (B);

(D) use experts and consultants, including a panel of experts who may be employed as authorized by section 3109 of title 5, United States Code;

(E) accept and utilize the services of voluntary and uncompensated personnel and reimburse such personnel for travel expenses, as described in paragraph (7)(B);

(F) make advance, progress, or other payments without regard to section 3324 of title 31, United States Code;

(G) rent office space in the District of Columbia for use by the CAN;

(H) enter into agreements with other Federal agencies to carry out oversight of the grant program under subsection (e), which agreements may include provisions for financial reimbursement for the oversight provided by such agencies; and

(I) make other necessary expenditures.

(6) MEETINGS.—

(A) IN GENERAL.—The Board shall meet 4 times per calendar year, at the call of the Chairperson.

(B) QUORUM; REQUIREMENTS; LIMITATIONS.—

(i) QUORUM.—A quorum shall consist of a total of 13 members of the Board, excluding ex-officio members, with diverse representation as described in clause (iv).

(ii) CHAIRPERSON OR VICE CHAIRPERSON.—Each meeting of the Board shall be attended by either the Chairperson or the Vice Chairperson.

(iii) LIMITATION.—No member or ex-officio member of the Board may attend more than 2 meetings of the Board each calendar year with the exceptions of the Chairperson and Vice Chairperson, who may attend all such meetings.

(iv) DIVERSE REPRESENTATION.—At each meeting of the Board, there shall be not less than one scientist, one representative of a disease advocacy organization, and one representative of a professional venture capital or private equity organization.

(7) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the Untied States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Federal Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(e) GRANT PROGRAM.—

(1) GRANTS AND CONTRACTS.—The Chairperson shall, through the Board of the CAN, award grants and contracts to eligible entities to assist such entities in carrying out projects described in paragraph (3).

(2) AWARD PROCESS.—The Chairperson of the Board may award a grant or contract under this subsection to an eligible entity only upon the approval of a majority of a quorum of the Board.

(3) USE OF FUNDS.—Funds awarded under this subsection shall be used—

(A) to accelerate the development of cures and treatments, including through the development of medical products, behavioral therapies, and biomarkers that demonstrate the safety or effectiveness of medical products; or

(B) to help the award recipient establish protocols that comply with Food and Drug

Administration standards and otherwise permit the recipient to meet regulatory requirements at all stages of development, manufacturing, review, approval, and safety surveillance of a medical product.

(4) ELIGIBLE ENTITIES.—To receive a grant or contract under this subsection, an entity shall—

(A) be—

(i) an individual;

(ii) a group of individuals; or

(iii) a public or private entity, which may include a private or public research institution, an institution of higher education, a medical center, a biotechnology company, a pharmaceutical company, a disease advocacy organization, a patient advocacy organization, or an academic research institution;

(B) submit an application containing—

(i) a detailed description of the project for which the entity seeks such grant or contract;

(ii) a timetable for such project;

(iii) an assurance that the entity will submit—

(I) interim reports describing the entity's—

(aa) progress in carrying out the project; and

(bb) compliance with all provisions of this section and conditions of receipt of such grant or contract; and

(II) a final report at the conclusion of the grant period, describing the outcomes of the project; and

(iv) a description of the protocols the entity will follow to comply with Food and Drug Administration standards and regulatory requirements at all stages of development, manufacturing, review, approval, and safety surveillance of a medical product; and

(C) provide such additional information as the Chairperson may require.

(5) STUDY SECTIONS OF THE CENTER FOR SCIENTIFIC REVIEW.—

(A) IN GENERAL.—The Chairperson may enter into an interagency agreement with the Center for Scientific Review within the National Institutes of Health to use the study sections of such Center to review applications submitted under paragraphs (4)(B) and additional information submitted under (4)(C) and to make recommendations to the Board. The Chairperson shall promulgate regulations and procedures to—

(i) ensure that each study section reviewing applications is composed of diverse members, as described in subparagraph (B);

(ii) require such study sections to create written records summarizing—

(I) all meetings and discussions of the study section; and

(II) the recommendations made by such study section to the Board; and

(iii) make the records described in clause (ii) available to the public in a manner that protects the privacy of applicants and panel members and any proprietary information from applicants.

(B) MEMBERSHIP.—The Chairperson shall ensure that the study sections of the Center for Scientific Review that review applications submitted under this subsection are selected solely on the basis of established records of distinguished service and include—

(i) for each of the fields of—

(I) basic research;

(II) medicine;

(III) biopharmaceuticals;

(IV) discovery and delivery of medical products;

(V) bioinformatics and gene therapy; and

(VI) medical instrumentation,

at least 2 individuals with expertise in such fields;

(ii) at least 3 representatives of professional venture capital or private equity organizations with demonstrated experience in private equity investing; and

(iii) at least 3 representatives of disease advocacy organizations.

(C) FINANCIAL COMPENSATION.—Any agreement under subparagraph (A) shall include an arrangement whereby the Chairperson reimburses the Center for Scientific Review for the services provided under such subparagraph.

(6) AWARDS.—

(A) THE CURES ACCELERATION PARTNERSHIP AWARDS.—

(i) INITIAL AWARD AMOUNT.—Each award under this subparagraph shall be not more than $15,000,000 per project for the first fiscal year for which the project is funded, which shall be payable in one payment, except that the Chairperson of the Board may increase the award amount for an eligible entity if the Board so determines by a majority vote.

(ii) FUNDING IN SUBSEQUENT FISCAL YEARS.—An eligible entity receiving an award under clause (i) may apply for additional funding for such project by submitting to the Board the information required under subparagraphs (B) and (C) of paragraph (4). The Chairperson may fund a project of such eligible entity in an amount not to exceed $15,000,000 for a fiscal year subsequent to the initial award under clause (i) if the Board so determines by majority vote.

(iii) MATCHING FUNDS.—As a condition for receiving a grant or contract under this subparagraph, an eligible entity shall contribute to the project non-Federal funds in the amount of $1 for every $3 awarded under clauses (i) and (ii), except that the Chairperson may waive or modify such matching requirement by a majority vote of the Board.

(B) THE CURES ACCELERATION GRANT AWARDS.—

(i) INITIAL AWARD AMOUNT.—Each award under this subparagraph shall be not more than $15,000,000 per project for the first fiscal year for which the project is funded, which shall be payable in one payment, except that the Chairperson of the Board may increase the award amount for an eligible entity if the Board so determines by a majority vote.

(ii) FUNDING IN SUBSEQUENT FISCAL YEARS.—An eligible entity receiving an award under clause (i) may apply for additional funding for such project by submitting to the Board the information required under subparagraphs (B) and (C) of paragraph (4). The Chairperson may fund a project of such eligible entity in an amount not to exceed $15,000,000 for a fiscal year subsequent to the initial award under clause (i) if the Board so determines by majority vote.

(7) SUSPENSION OF AWARDS FOR DEFAULTS, NONCOMPLIANCE WITH PROVISIONS AND PLANS, AND DIVERSION OF FUNDS; REPAYMENT OF FUNDS.—The Chairperson may suspend the award to any entity upon noncompliance by such entity with provisions and plans under this section or diversion of funds.

(8) AUDITS.—The Chairperson may enter into agreements with other entities to conduct periodic audits of the projects funded by grants or contracts awarded under this subsection.

(9) CLOSEOUT PROCEDURES.—At the end of a grant or contract period, a recipient shall follow the closeout procedures under section 74.71 of title 45, Code of Federal Regulations (or any successor regulation).

(f) STAFF.—The CAN may employ such officers and employees (including experts and consultants), appointed by the Chairperson, as may be necessary to enable the CAN to carry out its functions under this section, and may employ and fix the compensation of such officers and employees.

(g) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The CAN may accept donations, bequests, and devises, with or without conditions, and transfers for tax purposes, for the purpose of aiding or facilitating the work of the CAN subject to the following:

(A) In any case in which money or other property is donated, bequeathed, or devised to the CAN without designation for the benefit of which such property is intended, and without condition or restriction other than that such property be used for the purposes of the CAN, such property shall be deemed to have been donated, bequeathed, or devised to the CAN and the Chairperson shall have authority to receive such property.

(B) In any case in which any money or other property is donated, bequeathed, or devised to the CAN with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to the CAN whose function it is to carry out the purpose or purposes described, or referred to, by the terms of such condition or restriction, and the Chairperson shall have authority to receive such property.

(C) For the purposes of subparagraph (B), if one or more of the purposes of such a condition or restriction is covered by the functions of the CAN, or if some of the purposes of such a condition or restriction are covered by the CAN, the Board shall determine an equitable manner for distribution by the CAN of the property so donated, bequeathed, or devised.

(D) For the purpose of Federal income tax, gift tax, and estate tax laws, any money or other property donated, bequeathed, or devised to the Chairperson pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to, or for the use of, the United States.

(h) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—The Chairperson shall develop and enforce conflict of interest policies for the CAN and shall respond in a timely manner when such policies have been violated by a recipient of funds provided under a grant or contract awarded under this section.

(2) INFORMATION.—

(A) IN GENERAL.—In the case in which the principal investigator for a recipient described under subparagraph (B) has a conflict of interest, the Chairperson shall require the recipient to provide to the Chairperson the following information:

(i) The degree of the primary investigator's financial interest, estimated to the nearest $1,000.

(ii) A detailed report explaining how the recipient will manage the primary investigator's conflict of interest.

(B) RECIPIENT.—A recipient described in this subparagraph is a recipient—

(i) of a grant or contract awarded under subsection (e); and

(ii) that receives more than $250,000 under such grant or contract.

(i) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated—

(1) for fiscal year 2010, $1,000,000,000 for awards described under subsection (e)(6)(A), including associated administrative costs;

(2) for fiscal year 2010, $1,000,000,000 for awards described under subsection (e)(6)(B), including associated administrative costs; and

(3) such sums as may be necessary for subsequent fiscal years.

SEC. 3. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.

(a) REDESIGNATION OF CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by redesignating subpart 6 of part E as subpart 20;

(2) by transferring subpart 20, as so redesignated, to part C of such title IV;

(3) by inserting subpart 20, as so redesignated, after subpart 19 of such part C; and

(4) in subpart 20, as so redesignated—

(A) by redesignating sections 485E through 485H as sections 464z-3 through 464z-6, respectively;

(B) by striking ''National Center on Minority Health and Health Disparities'' each place such term appears and inserting ''National Institute on Minority Health and Health Disparities''; and

(C) by striking ''Center'' each place such term appears and inserting ''Institute''.

(b) PURPOSE OF INSTITUTE.—Subsection (h) of section 464z-3 of the Public Health Service Act, as so redesignated, is amended—

(1) in paragraph (1), by striking ''research endowments at centers of excellence under section 736.'' and inserting the following: ''research endowments—

''(1) at centers of excellence under section 736; and

''(2) at centers of excellence under section 464z-4.''; and

(2) in paragraph (2)(A), by striking ''average'' and inserting ''median''.

(c) TECHNICAL AMENDMENT.—Section 401(b)(24) of the Public Health Service Act (42 U.S.C. 281(b)(24)) is amended by striking ''Center'' and inserting ''Institute''.

(d) CONFORMING AMENDMENT.—Subsection (d)(1) of section 903 of the Public Health Service Act (42 U.S.C. 299a-1(d)(1)) is amended by striking ''section 485E'' and inserting ''section 464z-3''.

SEC. 4. CONFLICTS OF INTEREST.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following:

''(m) ENFORCEMENT OF CONFLICT OF INTEREST POLICIES.—

''(1) IN GENERAL.—The Director shall develop and enforce the conflict of interest policies for the National Institutes of Health and shall respond in a timely manner when such policies have been violated by a recipient of funds provided under a grant or contract awarded under this title.

''(2) INFORMATION.—

''(A) IN GENERAL.—In the case in which the principal investigator for a recipient described under subparagraph (B) has a conflict of interest, the Director shall require the recipient to provide to the Director the following information:

''(i) The degree of the primary investigator's financial interest, estimated to the nearest $1,000.

''(ii) A detailed report explaining how the recipient will manage the primary investigator's conflict of interest.

''(B) RECIPIENT.—A recipient described in this subparagraph is a recipient—

''(i) of a grant or contract awarded under this title; and

''(ii) that receives more than $250,000 under such grant or contract.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 402A of the Public Health Service Act (42 U.S.C. 282a) is amended by striking paragraphs (1) through (3) of subsection (a) and inserting the following:

''(1) $40,000,000,000 for fiscal year 2010; and

''(2) such sums as may be necessary for each of fiscal years 2011 and 2012.''.

(b) OFFICE OF THE DIRECTOR.—Subparagraph (b) of section 402A of the Public Health Service Act (42 U.S.C. 282a(b)) is amended by striking ''2007 through 2009'' and inserting ''2010 through 2012''.

SUPPORTERS

Autism Speaks, Association of Minority Health Professions Schools, Morehouse School of Medicine, Meharry Medical College, Charles Drew University of Medicine and Science, Cure Alzheimer's Fund, American Thoracic Society, Scleroderma Foundation, NephCure Foundation, National Marfan Foundation, Crohn's and Colitis Foundation of America, Pulmonary Hypertension Association, Biotechnology Industry Organization, Melanoma Research Foundation, Alzheimer's Association, Medical Library Association, Association of Academic Health Sciences Libraries, American Lung Association, Lupus Research Institute, S.L.E. Lupus Foundation, Friends of Cancer Research, College on Problems of Drug Dependence, Parkinson's Action Network.

By Mr. GREGG:

S. 917. A bill provide assistance to Pakistan under certain conditions, and for other purposes; to the Committee on Foreign Relations.

Mr. GREGG. Mr. President, I rise today to introduce legislation that provides the President with extraordinary, but critical authority under section 451 of the Foreign Assistance Act of 1961 with respect to assistance for Pakistan.

Specifically, the bill allows the President to reprogram up to $500,000,000 of previously appropriated foreign operations funds for assistance for Pakistan if the President determines that it is in the vital national security interests of the U.S. to do so.

The President must still report promptly to Congress on the exercise of this authority, and it is my expectation—although not legally binding—that reprogrammed funds will be reimbursed in subsequent annual or supplemental appropriations bills.

Extended until September 30, 2010, this authority is required because of the increasingly dire situation in Pakistan and alarming news reports of territorial gains by extremists. While I do not pretend to have the answers to Pakistan's myriad challenges, I do know that the administration lacks the necessary authority to reprogram significant funds to respond to further political and economic deterioration in that country. Should the government of Pakistani President Zardari collapse, the administration will need maximum flexibility in its response.

I can anticipate some may have a knee jerk reaction to the provision of such extraordinary authority. In response, I would remind my colleagues that regardless of their opinions of Pakistan's messy political situation, events in Pakistan directly impact Afghanistan—and our troops on the ground there.

Of course, this is in addition to the impact that destabilization would have on Pakistan's nuclear complex, specifically the combination of dozens of nuclear weapons, untested security systems, and a surplus of Islamic militants in the area. These issues are at the forefront of our security interests in the region and would exacerbate exponentially the impact of destabilization.

It might interest my colleagues to know that current law limits section 451 reprogram authority to $25,000,000. In contrast, the supplemental budget request seeks $4,000,000,000 in special transfer authority for the Department of Defense to meet emerging requirements. Surely, the State Department should also have increased flexibility to react promptly to the economic and security needs of Pakistan should the worst case scenario transpire.

I urge the relevant Committee to consider and act upon this legislation quickly.

By Mr. AKAKA:

S. 919. A bill to amend section 1154 of title 58, United States Code, to clarify the additional requirements for consideration to be afforded time, place, and circumstances of service in determinations regarding service-connected disabilities; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am today introducing the proposed Clarification of Characteristics of Combat Service Act of 2009. This legislation is designed to address concerns which have been noted during the Committee's oversight visits to VA regional offices. From the review of claims folders as part of ongoing oversight, Committee staff has noted that VA adjudicators often fail to factor in the existence of common occurrences when considering claims from combat veterans because there is no formal evidence on the matters in question in the claimant's official military records.

When common hazards exist in particular areas where our armed forces have or are serving, a means must be established to determine whether a particular veteran's claim of exposure to such hazard or matter is consistent with the circumstances of service in that area, even without evidence in individual official records. This proposed bill would establish a mechanism by requiring VA to promulgate regulations that would include standards that VA adjudicators would use for evaluating the consistency between lay evidence and claimed matters, such as exposure to factors common to servicemembers serving in particular combat areas.

This proposed bill is intended to result in recognition by VA that, where there is evidence of common events, a veteran's testimony, if consistent with other evidence, would be accepted without requiring specific, formal evidence of individual exposure to the event. By law, lay testimony is currently recognized in claims where a veteran served in a military unit which participated in combat. While this bill is not intended to provide a presumption of service-connection for any particular disability, it should improve the accurate adjudication of claims in those cases where a veteran served in an area where certain events or exposures are widespread.

For example, there is widespread agreement that those who have served in Iraq since the start of the conflict there have been exposed to improvised explosive devices—IEDs. However,

based on Committee oversight, it appears that it often happens that, when a veteran applies for compensation for disabilities related to IED exposure, such as tinnitus, the claim may be denied if the veteran's service medical record does not show treatment for tinnitus in service or otherwise documents exposure to an IED. Since it would be highly unusual to find documentation of treatment where a veteran in a combat zone has consulted with medical personnel for a relatively minor condition, such as exposure to an IED which did not cause acute observable injury, the formal records would not be of use to the claimant. The regulations required by the legislation I am introducing would likely include provision for conceding exposure to an IED in claims brought by veterans who served in Iraq.

Another example of the problems that the legislation is designed to address involves claims from Korean war veterans, many of whom were exposed to extreme cold, but whose records may not have documentation of treatment for a cold injury or information on the actual temperature to which they were exposed. I would anticipate that the regulations required by this legislation would provide for VA to concede exposure to subfreezing temperatures in such cases if consistent with the location where the veteran served.

I expect that this measure should speed the processing by claims, by not requiring each veteran to individually establish by official government records, which often do not document individual participation, exposure to one or more events which are well established as circumstances involving the place and type of the veteran's service.

In closing, I note that this legislation has been developed in consultation with VA and with a variety of individuals and groups interested in VA claims but I do not view it as a final approach. I look forward to working with my colleagues on the Committee and in the Senate, as well as with those with an interest in this issue, to improve this bill so that combat veterans of the current conflicts and of earlier conflicts who allege exposure to well-recognized events will not be burdened by requirements of acquiring official evidence of individual participation in such events. This should help veterans receive the benefits they deserve in a timely manner. I urge support for this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 919

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 ''Clarification of Characteristics of Combat Service Act of 2009''.

SEC. 2. CLARIFICATION OF ADDITIONAL REQUIREMENTS FOR CONSIDERATION TO BE AFFORDED TIME, PLACE, AND CIRCUMSTANCES OF SERVICE IN DETERMINATIONS REGARDING SERVICE-CONNECTED DISABILITIES.

Subsection (a) of section 1154 of title 38, United States Code, is amended to read as follows:

''(a)(1) The Secretary shall include in the regulations pertaining to service-connection of disabilities the following:

''(A) Additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence.

''(B) Additional provisions specifying that, in the case of a veteran who served in a particular combat zone, the Secretary shall accept credible lay or other evidence as sufficient proof that the veteran encountered an event that the Secretary specifies in such regulations as associated with service in particular locations where the veteran served or in particular circumstances under which the veteran served in such combat zone.

''(C) The provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542; 98 Stat. 2727).

''(2) In paragraph (1)(B), the term 'combat zone' means a combat zone for purposes of section 112 of the Internal Revenue Code of 1986 or a predecessor provision of law.''.

By Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. VOINOVICH):

S. 920. A bill to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. CARPER. Mr. President, I rise today to introduce two bills, S. 920 and S. 921, that I believe could represent the most sweeping reforms of government information technology management reform we've considered in some time.

I would like to start by addressing the IT Investment Oversight and Waste Prevention Act.

Every year, agencies spend billions of dollars on IT investments that they believe will increase productivity, reduce costs, or improve customer service. But agencies often fail to properly plan and manage their investments. Rather, nearly one third of all Federal IT investments are considered by OMB to be ''poorly planned.'' Many of these investments will be delivered over budget, behind schedule, and not performing up to agencies' original expectations.

Some might say that we just shouldn't make these kinds of investments. But many of them are critical to agency missions.

My colleagues and I on the Homeland Security and Governmental Affairs Committee's Subcommittee on Federal Financial Management, which I chair, have held four hearings on the issue of troubled IT investments now, including one today. And what we've learned is that some agencies can't keep the expected cost of their investments down or deliver them on time as promised. Nor do these agencies, in many cases, have qualified IT experts they can turn to before a project spirals out of control. The bill I have put forward today along with a number of my colleagues addresses these issues.

Our bill starts by requiring the Office of Management and Budget to increase the transparency of funded IT investments on a public website. OMB created such a website, known as VUE-IT, this past July following one of our subcommittee hearings. Our bill would ensure that VUE-IT or whatever similar site the new Obama team creates has the cost, schedule, and performance necessary for Congress and the general public to know if a project is a success or should be scrapped.

Our bill also requires that agency plans for new IT systems must contain a clear business case and provide complete and accurate information before the OMB approves the investments. Although this sounds like a simple concept, it doesn't always happen. And OMB has historically been unwilling to turn down an agency IT request.

To correct this, our bill also empowers OMB and agency Chief Information Officers to take action if they realize a project isn't going as planned, before it spirals out of control. This action could be the assignment of highly-trained IT experts who could help bring projects back on track.

Lastly, our bill recognizes that there are a lot of innovative and hard-working federal employees that deserve recognition for the work they do in information technology. Our bill requires the Office of Personnel Management to provide agencies guidance on programs that can be set up to reward employees for their excellence.

Now, I would like to discuss my next bill titled the United States Information and Communications Enhancement Act of 2009.

Everyday, massive amounts of information are transmitted across the global information infrastructure. Some of this information is routine email between friends and family. Much of it, however, consists of highly sensitive military information, however, or commercial secrets.

As all of us can attest to, increasing global interconnectivity has greatly increased our productivity and ability to communicate. However, it has also increased our responsibility to make sure this information is protected.

The Federal Government stores within its databases some of our nation's most critical military, economic, and commercial secrets. Great harm could be caused if it were to fall into the

wrong hands. Knowing this, hackers, criminal organizations, and even other countries are spending a good deal of money and time trying to access it.

In fact, just last week we learned that someone had gone online and stolen our military's most advanced jet fighter plans with the stroke of a button. The cost to the American taxpayer for this single incident is approximately $300 billion worth of research and development, and an incalculable amount if the information were to ever be used against us.

Unfortunately, many agencies have not done as much as they should be doing to prevent these cyber intrusions. Instead they have been led to believe that producing plans about cyber security is equivalent to actually monitoring and protecting their networks. My bill will correct this.

First, my bill recognizes that there needs to be a coordinating office to oversee the multiple agencies that have a hand in cyber space. Today, the NSA and the Departments of Homeland Security and Defense all have different roles when it comes to securing cyber networks in the federal government and the private sector. Their efforts are largely uncoordinated and ineffective. This bill creates a White House office with a director confirmed by the Senate whose major responsibility would be to rectify this situation

My bill also ensures that agencies are spending scarce resources effectively. Instead of agencies wasting precious resources producing security plans that are outdated as soon they are printed, my bill requires agencies to continuously monitor their networks for cyber intrusions and malicious activities, take steps to address their vulnerabilities, and then regularly test whether the steps they are taking to secure their networks are effective.

My bill also requires the General Service Administration to harness the significant purchasing power of the federal government to purchase more secure hardware and software. This is the model the Air Force used a few years ago with Microsoft and it led to a savings of approximately $98 million in one year and an enhanced security posture. This is a successful model that we should continue throughout the federal government.

Lastly, my bill recognizes that the Department of Homeland Security has taken the lead among civilian agencies in protecting the perimeter of the federal government but lacks some of the necessary authority and technical people necessary to realize a more secure civilian cyber space. Therefore, our bill will require agencies to develop policy and guidance for coordinating with US-CERT and give the Director of US-CERT the ability to hire the personnel needed to defend our national security.

I look forward to working with my colleagues to get these important and necessary reforms enacted before it's too late. I think everyone can agree that computers, the Internet, and cutting-edge technology have greatly benefited our government and our society. But we also need to recognize that it has greatly increased the threats we face on a daily basis.

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 placed in the RECORD, as follows:

S. 920

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 ''Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The effective deployment of information technology can make the Federal Government more efficient, effective, and transparent.

(2) Historically, the Federal Government has struggled to properly plan, manage, and deliver information technology investments on time, on budget, and performing as planned.

(3) The Office of Management and Budget has made significant progress overseeing information technology investments made by Federal agencies but continues to struggle to ensure that such investments meet cost, schedule, and performance expectations.

(4) Congress has limited knowledge of the actual cost, schedule, and performance of agency information technology investments and has difficulty providing the necessary oversight.

(5) In July 2008, an official of the Government Accountability Office testified before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security of the Committee on Homeland Security and Governmental Affairs of the Senate, stating that—

(A) agencies self-report inaccurate and unreliable project management data to the Office of Management and Budget and Congress; and

(B) the Office of Management and Budget should establish a mechanism that would provide real-time project management information and force agencies to improve the accuracy and reliability of the information provided.

SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT PROJECTS.

Section 11302(c)(1) of title 40, United States Code, is amended by striking the period at the end and inserting the following: '', including establishing a Website, updating the Website on a quarterly basis, and including on the Website, not later than 90 days after the date of the enactment of the Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009—

''(1) the cost, schedule, and performance of all major information technology investments using earned-value management data based on the ANSI–EIA–748–B standard;

''(2) accurate quarterly information since the commencement of the project;

''(3) a graphical depiction of trend information since the commencement of the project;

''(4) a clear delineation of investments that have experienced cost, schedule, or performance variance greater than 10 percent over the life cycle of the investment;

''(5) an explanation of the reasons the investment deviated from the benchmark established at the commencement of the project; and

''(6) the number of times investments were rebaselined and the dates on which such rebaselines occurred.''.

SEC. 4. IT INVESTMENT PROJECTS.

(a) SIGNIFICANT AND GROSS DEVIATIONS.—Section 11317 of title 40, United States Code, is amended to read as follows:

''SEC. 11317. SIGNIFICANT AND GROSS DEVIATIONS.

''(a) DEFINITIONS.—In this subchapter:

''(1) AGENCY HEAD.—The term 'Agency Head' means the head of the Federal agency that is primarily responsible for the IT investment project under review.

''(2) ANSI EIA–748–B STANDARD.—The term 'ANSI EIA–748–B Standard' means the measurement tool jointly developed by the American National Standards Institute and the Electronic Industries Alliance to analyze Earned Value Management systems.

''(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Oversight and Government Reform of the House of Representatives;

''(C) the Committee on Appropriations of the Senate;

''(D) the Committee on Appropriations of the House of Representatives; and

''(E) any other relevant congressional committee with jurisdiction over an agency required to take action under this section.

''(4) CHIEF INFORMATION OFFICER.—The term 'Chief Information Officer' means the Chief Information Officer designated under section 3506(a)(2) of title 44 of the Federal agency that is primarily responsible for the IT investment project under review.

''(5) CORE IT INVESTMENT PROJECT.—The terms 'core IT investment project' and 'core project' mean a mission critical IT investment project designated as such by the Chief Information Officer, with approval by the Agency Head under subsection (b).

''(6) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(7) EARNED VALUE MANAGEMENT.—The term 'Earned Value Management' means the cost, performance, and schedule data used to determine project status and developed in accordance with the ANSI EIA–748-B Standard.

''(8) GROSSLY DEVIATED.—The term 'grossly deviated' means cost, schedule, or performance variance that is at least 40 percent from the Original Baseline.

''(9) INDEPENDENT GOVERNMENT COST ESTIMATE.—The term 'independent government cost estimate' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of an IT investment project, which—

''(A) is based on programmatic and technical specifications provided by the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

''(B) is formulated and provided by an entity other than the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

''(C) contains sufficient detail to inform the selection of an Earned Value Management baseline benchmark measure under the ANSI EIA–748-B standard; and

''(D) accounts for the full life cycle cost plus associated operations and maintenance expenses over the usable life of the project's deliverables.

''(10) IT INVESTMENT PROJECT.—The terms 'IT investment project' and 'project' mean an information technology system or information technology acquisition that—

''(A) requires special management attention because of its importance to the mission or function of the agency, a component of the agency, or another organization;

''(B) is for financial management and obligates more than $500,000 annually;

''(C) has significant program or policy implications;

''(D) has high executive visibility;

''(E) has high development, operating, or maintenance costs;

''(F) is funded through other than direct appropriations; or

''(G) is defined as major by the agency's capital planning and investment control process.

''(11) LIFE CYCLE COST.—The term 'life cycle cost' means the total cost of an IT investment project for planning, research and development, modernization, enhancement, operation, and maintenance.

''(12) ORIGINAL BASELINE.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), the term 'Original Baseline' means the ANSI EIA–748–B Standard-compliant Earned Value Management benchmark established at the commencement of an IT investment project.

''(B) GROSSLY DEVIATED PROJECT.—If an IT investment project grossly deviates from its Original Baseline (as defined in subparagraph (A)), the term 'Original Baseline' means the ANSI EIA–748–B Standard-compliant Earned Value Management benchmark established under subsection (e)(3)(C).

''(13) SIGNIFICANTLY DEVIATED.—The term 'significantly deviated' means Earned Value Management variance that is at least 20 percent from the Original Baseline.

''(b) CORE IT INVESTMENT PROJECTS DESIGNATION.—Each Chief Information Officer, with approval by the Agency Head, shall—

''(1) identify the major IT investments that are the most critical to the agency; and

''(2) designate any project as a 'core IT investment project' or a 'core project', upon determining that the project is a mission critical IT investment project that—

''(A) represents a significant high dollar value relative to the average IT investment project in the agency's portfolio;

''(B) delivers a capability critical to the successful completion of the agency mission, or a portion of such mission;

''(C) incorporates unproven or previously undeveloped technology to meet primary project technical requirements; or

''(D) would have a significant negative impact on the successful completion of the agency mission if the project experienced significant cost, schedule, or performance deviations.

''(c) COST, SCHEDULE, AND PERFORMANCE REPORTS.—

''(1) QUARTERLY REPORTS.—Not later than 14 days after the end of each fiscal quarter, the project manager designated by the Agency Head for an IT investment project shall submit a written report to the Chief Information Officer that includes, as of the last day of the applicable quarter—

''(A) a description of the cost, schedule, and performance of all projects under the project manager's supervision;

''(B) the original and current project cost, schedule, and performance benchmarks for each project under the project manager's supervision;

''(C) the quarterly and cumulative cost, schedule, and performance variance related to each IT investment project under the project manager's supervision since the commencement of the project;

''(D) for each project under the project manager's supervision, any known, expected, or anticipated changes to project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

''(E) the current cost, schedule, and performance status of all projects under supervision that were previously identified as significantly deviated or grossly deviated; and

''(F) any corrective actions taken to address problems discovered under subparagraphs (C) through (E).

''(2) INTERIM REPORTS.—If the project manager for an IT investment project determines that there is reasonable cause to believe that an IT investment project has significantly deviated or grossly deviated since the issuance of the latest quarterly report, the project manager shall submit to the Chief Information Officer, not later than 14 days after such determination, a report on the project that includes, as of the date of the report—

''(A) a description of the original and current program cost, schedule, and performance benchmarks;

''(B) the cost, schedule, or performance variance related to the IT investment project since the commencement of the project;

''(C) any known, expected, or anticipated changes to the project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

''(D) the major reasons underlying the significant or gross deviation of the project; and

''(E) a corrective action plan to correct such deviations.

''(d) DETERMINATION OF SIGNIFICANT DEVIATION.—

''(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

''(A) determine if any IT investment project has significantly deviated; and

''(B) report such determination to the Agency Head.

''(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has significantly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a significant deviation for that project under this section since the project was last required to be rebaselined under this section, the Agency Head shall submit a report to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

''(A) written notification of such determination;

''(B) the date on which such determination was made;

''(C) the amount of the cost increases and the extent of the schedule delays with respect to such project;

''(D) any requirements that—

''(i) were added subsequent to the original contract; or

''(ii) were originally contracted for, but were changed by deferment or deletion from the original schedule, or were otherwise no longer included in the requirements contracted for;

''(E) an explanation of the differences between—

''(i) the estimate at completion between the project manager, any contractor, and any independent analysis; and

''(ii) the original budget at completion;

''(F) a statement of the reasons underlying the project's significant deviation; and

''(G) a summary of the plan of action to remedy the significant deviation.

''(3) DEADLINE.—

''(A) NOTIFICATION BASED ON QUARTERLY REPORT.—If the determination of significant deviation is based on a report submitted under subsection (c)(1), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the end of the quarter upon which such report is based.

''(B) NOTIFICATION BASED ON INTERIM REPORT.—If the determination of significant deviation is based on a report submitted under subsection (c)(2), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the submission of such report.

''(e) DETERMINATION OF GROSS DEVIATION.—

''(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

''(A) determine if any IT investment project has grossly deviated; and

''(B) report any such determination to the Agency Head.

''(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has grossly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a gross deviation for that project under this section since the project was last required to be rebaselined under this section, the Agency Head shall submit a report to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

''(A) written notification of such determination, which—

''(i) identifies the date on which such determination was made; and

''(ii) indicates whether or not the project has been previously reported as a significant or gross deviation by the Chief Information Officer, and the date of any such report;

''(B) incorporations by reference of all prior reports to Congress on the project required under this section;

''(C) updated accounts of the items described in subparagraphs (C) through (G) of subsection (d)(2);

''(D) the original estimate at completion for the project manager, any contractor, and any independent analysis;

''(E) a graphical depiction that shows monthly planned expenditures against actual expenditures since the commencement of the project;

''(F) the amount, if any, of incentive or award fees any contractor has received since the commencement of the contract and the reasons for receiving such incentive or award fees;

''(G) the project manager's estimated cost at completion and estimated completion date for the project if current requirements are not modified;

''(H) the project manager's estimated cost at completion and estimated completion date for the project based on reasonable modification of such requirements;

''(I) an explanation of the most significant occurrence contributing to the variance identified, including cost, schedule, and performance variances, and the effect such occurrence will have on future project costs and program schedule;

''(J) a statement regarding previous or anticipated rebaselining or replanning of the project and the names of the individuals responsible for approval;

''(K) the original life cycle cost of the investment and the expected life cycle cost of the investment expressed in constant base year dollars and in current dollars; and

''(L) a comprehensive plan of action to remedy the gross deviation, and milestones

established to control future cost, schedule, and performance deviations in the future.

''(3) REMEDIAL ACTION.—

''(A) IN GENERAL.—If the Chief Information Officer determines under paragraph (1)(A) that an IT investment project has grossly deviated, the Agency Head, in consultation with the Chief Information Officer and the appropriate project manager, shall develop and implement a remedial action plan that includes—

''(i) a report that—

''(I) describes the primary business case and key functional requirements for the project;

''(II) describes any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price type contract;

''(III) includes a certification by the Agency Head, after consultation with the Chief Information Officer, that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case;

''(IV) describes any changes to the primary business case or key functional requirements which have occurred since project inception; and

''(V) includes an independent government cost estimate for the project conducted by an entity approved by the Director;

''(ii) an analysis that—

''(I) describes agency business goals that the project was originally designed to address;

''(II) includes a gap analysis of what project deliverables remain in order for the agency to accomplish the business goals referred to in subclause (I);

''(III) identifies the 3 most cost-effective alternative approaches to the project which would achieve the business goals referred to in subclause (I); and

''(IV) includes a cost-benefit analysis, which compares—

''(aa) the completion of the project with the completion of each alternative approach, after factoring in future costs associated with the termination of the project; and

''(bb) the termination of the project without pursuit of alternatives, after factoring in foregone benefits; and

''(iii) a new baseline of the project is established that is consistent with the independent government cost estimate required under clause (i)(V); and

''(iv) the project is designated as a core IT investment project and subjected to the requirements under subsection (f).

''(B) SUBMISSION TO CONGRESS.—The remedial action plan and all corresponding reports, analyses, and actions under this paragraph shall be submitted to the appropriate congressional committees and the Director.

''(C) REPORTING AND ANALYSIS EXEMPTIONS.—

''(i) IN GENERAL.—The Chief Information Officer, in coordination with the Agency Head and the Director, may forego the completion of any element of a report or analysis under clause (i) or (ii) of subparagraph (A) if the Chief Information Officer determines that such element is not relevant to the understanding of the difficulties facing the project or that such element does not further the remedial steps necessary to ensure that the project is completed in a timely and cost-efficient manner.

''(ii) IDENTIFICATION OF REASONS.—The Chief Information Officer shall include the reasons for not including any element referred to in clause (i) in the report submitted to Congress under subparagraph (B).

''(4) DEADLINE AND FUNDING CONTINGENCY.—

''(A) NOTIFICATION AND REMEDIAL ACTION BASED ON QUARTERLY REPORT.—

''(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(1), the Agency Head shall—

''(I) not later than 45 days after the end of the quarter upon which such report is based, notify the appropriate congressional committees and the Director in accordance with paragraph (2); and

''(II) not later than 180 days after the end of the quarter upon which such report is based, ensure the completion of remedial action under paragraph (3).

''(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

''(B) NOTIFICATION AND REMEDIAL ACTION BASED ON INTERIM REPORT.—

''(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(2), the Agency Head shall—

''(I) not later than 45 days after the submission of such report, notify the appropriate congressional committees in accordance with paragraph (2); and

''(II) not later than 180 days after the submission of such report, ensure the completion of remedial action in accordance with paragraph (3).

''(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

''(f) ADDITIONAL REQUIREMENTS FOR CORE IT INVESTMENT PROJECT REPORTS.—

''(1) INITIAL REPORT.—If a remedial action plan described in subsection (e)(3)(A) has not been submitted for a core IT investment project, the Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall prepare an initial report for inclusion in the first budget submitted to Congress under section 1105(a) of title 31, United States Code, after the designation of a project as a core IT investment project, which includes—

''(A) a description of the primary business case and key functional requirements for the project;

''(B) an identification and description of any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price contracts;

''(C) an independent government cost estimate for the project;

''(D) certification by the Chief Information Officer that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case; and

''(E) any changes to the primary business case or key functional requirements which have occurred since project inception.

''(2) QUARTERLY REVIEW OF BUSINESS CASE.—The Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall—

''(A) monitor the primary business case and core functionality requirements reported to Congress and the Director for designated core IT investment projects; and

''(B) if changes to the primary business case or key functional requirements for a core IT investment project occur in any fiscal quarter, submit a report to Congress and the Director not later than 14 days after the end of such quarter that details the changes and describes the impact the changes will have on the cost and ultimate effectiveness of the project.

''(3) ALTERNATIVE SIGNIFICANT DEVIATION DETERMINATION.—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have significantly deviated—

''(A) the Chief Information Officer shall notify the Agency Head of the significant deviation; and

''(B) the Agency Head shall fulfill the requirements under subsection (d)(2) in accordance with the deadlines under subsection (d)(3).

''(4) ALTERNATIVE GROSS DEVIATION DETERMINATION.—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have grossly deviated—

''(A) the Chief Information Officer shall notify the Agency Head of the gross deviation; and

''(B) the Agency Head shall fulfill the requirements under subsections (e)(2) and (e)(3) in accordance with subsection (e)(4).''.

(b) INCLUSION IN THE BUDGET SUBMITTED TO CONGRESS.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''include in each budget the following:'' and inserting ''include in each budget—'';

(2) by redesignating the second paragraph (33) (as added by section 889(a) of Public Law 107–296) as paragraph (35);

(3) in each of paragraphs (1) through (34), by striking the period at the end and inserting a semicolon;

(4) in paragraph (35), as redesignated by paragraph (2), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(36) the reports prepared under section 11317(f) of title 40, United States Code, relating to the core IT investment projects of the agency.''.

(c) IMPROVEMENT OF INFORMATION TECHNOLOGY ACQUISITION AND DEVELOPMENT.—Subchapter II of chapter 113 of title 40, United States Code, is amended by adding at the end the following:

''SEC. 11319. ACQUISITION AND DEVELOPMENT.

''(a) PURPOSE.—The objective of this section is to significantly reduce—

''(1) cost overruns and schedule slippage from the estimates established at the time the program is initially approved;

''(2) the number of requirements and business objectives at the time the program is approved that are not met by the delivered products; and

''(3) the number of critical defects and serious defects in delivered information technology.

''(b) OMB GUIDANCE.—The Director of the Office of Management and Budget shall—

''(1) not later than 180 days after the date of the enactment of this section, prescribe uniformly applicable guidance for agencies to implement the requirements of this section, which shall not include any exemptions to such requirements not specifically authorized under this section; and

''(2) take any actions that are necessary to ensure that Federal agencies are in compliance with the guidance prescribed pursuant to paragraph (1) not later than 1 year after the date of the enactment of this section.

''(c) ESTABLISHMENT OF PROGRAM.—Not later than 120 days after the date of the enactment of this section, each Chief Information Officer, upon the approval of the Agency Head (as defined in section 11317(a) of title 40, United States Code) shall establish a program to improve the information technology (referred to in this section as 'IT') processes overseen by the Chief Information Officer.

''(d) PROGRAM REQUIREMENTS.—Each program established pursuant to this section shall include—

''(1) a documented process for IT acquisition planning, requirements development and management, project management and oversight, earned-value management, and risk management;

''(2) the development of appropriate metrics that can be implemented and monitored on a real-time dashboard for performance measurement of—

''(A) processes and development status of investments;

''(B) continuous process improvement of the program; and

''(C) achievement of program and investment outcomes;

''(3) a process to ensure that key program personnel have an appropriate level of experience, training, and education, at an institution or institutions approved by the Director, in the planning, acquisition, execution, management, and oversight of IT;

''(4) a process to ensure that the agency implements and adheres to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of IT programs and developments; and

''(5) a process for the Chief Information Officer to intervene or stop the funding of an IT investment if it is at risk of not achieving major project milestones.

''(e) ANNUAL REPORT TO OMB.—Not later than the last day of February of each year, the Agency Head shall submit a report to the Office of Management and Budget that includes—

''(1) a detailed summary of the accomplishments of the program established by the Agency Head pursuant to this section;

''(2) the status of completeness of implementation of each of the program requirements, and the date each such requirement was deemed to be completed;

''(3) the percentage of Federal IT projects covered under the program compared to all of the IT projects of the agency, listed by number of programs and by annual dollars expended;

''(4) a detailed breakdown of the sources and uses of the amounts spent by the agency during the previous fiscal year to support the activities of the program;

''(5) a copy of any guidance issued under the program and a statement regarding whether each such guidance is mandatory;

''(6) the identification of the metrics developed in accordance with subsection (b)(2);

''(7) a description of how paragraphs (3) and (4) of subsection (b) have been implemented and any related agency guidance; and

''(8) a description of how agencies will continue to review and update the implementation and objectives of such guidance.

''(f) ANNUAL REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall provide an annual report to Congress on the status and implementation of the program established pursuant to this section.''.

(d) CLERICAL AMENDMENTS.—The table of sections for chapter 113 of title 40, United States Code, is amended—

(1) by striking the item relating to section 11317 and inserting the following:

''11317. Significant and gross deviations.'';

and

(2) by inserting after the item relating to section 11318 the following:

''11319. Acquisition and development.''.

SEC. 5. IT TIGER TEAM.

(a) PURPOSE.—The Director of the Office of Management of Budget (referred to in this section as the ''Director''), in consultation with the Administrator of the Office of Electronic Government and Information and Technology at the Office of Management and Budget (referred to in this section as the ''E-Gov Administrator''), shall assist agencies in avoiding significant and gross deviations in the cost, schedule, and performance of IT investment projects (as such terms are defined in section 11317(a) of title 40, United States Code).

(b) IT TIGER TEAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the E-Gov Administrator shall establish a small group of individuals (referred to in this section as the ''IT Tiger Team'') to carry out the purpose described in subsection (a).

(2) QUALIFICATIONS.—Individuals selected for the IT Tiger Team—

(A) shall be certified at the Senior/Expert level according to the Federal Acquisition Certification for Program and Project Managers (FAC–P/PM);

(B) shall have comparable education, certification, training, and experience to successfully manage high-risk IT investment projects; or

(C) shall have expertise in the successful management or oversight of planning, architecture, process, integration, or other technical and management aspects using proven process best practices on high-risk IT investment projects.

(3) NUMBER.—The Director, in consultation with the E-Gov Administrator, shall determine the number of individuals who will be selected for the IT Tiger Team.

(c) OUTSIDE CONSULTANTS.—

(1) IDENTIFICATION.—The E-Gov Administrator shall identify consultants in the private sector who have expert knowledge in IT program management and program management review teams. Not more than 20 percent of such consultants may be formally associated with any 1 of the following types of entities:

(A) Commercial firms.

(B) Nonprofit entities.

(C) Federally funded research and development centers.

(2) USE OF CONSULTANTS.—

(A) IN GENERAL.—Consultants identified under paragraph (1) may be used to assist the IT Tiger Team in assessing and improving IT investment projects.

(B) LIMITATION.—Consultants with a formally established relationship with an organization may not participate in any assessment involving an IT investment project for which such organization is under contract to provide technical support.

(C) EXCEPTION.—The limitation described in subparagraph (B) may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(3) CONTRACTS.—The E-Gov Administrator, in conjunction with the Administrator of the General Services Administration (GSA), may establish competitively bid contracts with 1 or more qualified consultants, independent of any GSA schedule.

(d) INITIAL RESPONSE TO ANTICIPATED SIGNIFICANT OR GROSS DEVIATION.—If the E-Gov Administrator determines there is reasonable cause to believe that a major IT investment project is likely to significantly or grossly deviate (as defined in section 11317(a) of title 40, United States Code), including the receipt of inconsistent or missing data, or if the E–Gov Administrator determines that the assignment of 1 or more members of the IT Tiger Team could meaningfully reduce the possibility of significant or gross deviation, the E-Gov Administrator shall carry out the following activities:

(1) Recommend the assignment of 1 or more members of the IT Tiger Team to assess the project in accordance with the scope and time period described in section 11317(c)(1) of title 40, United States Code, beginning not later than 14 days after such recommendation. No member of the Tiger Team who is associated with the department or agency whose IT investment project is the subject of the assessment may be assigned to participate in this assessment. Such limitation may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(2) If the E-Gov Administrator determines that 1 or more qualified consultants are needed to support the efforts of the IT Tiger Team under paragraph (1), negotiate a contract with the consultant to provide such support during the period in which the IT Tiger Team is conducting the assessment described in paragraph (1).

(3) Ensure that the costs of an assessment under paragraph (1) and the support services of 1 or more consultants under paragraph (2) are paid by the major IT investment project being assessed.

(4) Monitor the progress made by the IT Tiger Team in assessing the project.

(e) REDUCTION OF SIGNIFICANT OR GROSS DEVIATION.—If the E-Gov Administrator determines that the assessment conducted under subsection (d) confirms that a major IT investment project is likely to significantly or grossly deviate, the E-Gov Administrator shall recommend that the Agency Head (as defined in section 11317(a)(1) of title 40, United States Code) take steps to reduce the deviation, which may include—

(1) providing training, education, or mentoring to improve the qualifications of the program manager;

(2) replacing the program manager or other staff;

(3) supplementing the program management team with Federal Government employees or independent contractors;

(4) terminating the project; or

(5) hiring an independent contractor to report directly to senior management and the E-Gov Administrator.

(f) REPROGRAMMING OF FUNDS.—

(1) AUTHORIZATION.—The Director may direct an Agency Head to reprogram amounts which have been appropriated for such agency to pay for an assessment under subsection (d).

(2) NOTIFICATION.—An Agency Head who reprograms appropriations under paragraph (1) shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any such reprogramming.

(g) REPORT TO CONGRESS.—The Director shall include in the annual Report to Congress on the Benefits of E-Government Initiatives a detailed summary of the composition and activities of the IT Tiger Team, including—

(1) the number and qualifications of individuals on the IT Tiger Team;

(2) a description of the IT investment projects that the IT Tiger Team has worked during the previous fiscal year;

(3) the major issues that necessitated the involvement of the IT Tiger Team to assist agencies with assessing and managing IT investment projects and whether such issues were satisfactorily resolved;

(4) if the issues referred to in paragraph (3) were not satisfactorily resolved, the issues still needed to be resolved and the Agency Head's plan for resolving such issues;

(5) a detailed breakdown of the sources and uses of the amounts spent by the Office of Management and Budget and other Federal agencies during the previous fiscal year to support the activities of the IT Tiger Team; and

(6) a determination of whether the IT Tiger Team has been effective in—

(A) preventing projects from deviating from the original baseline; and

(B) assisting agencies in conducting appropriate analysis and planning before a project is funded.

SEC. 6. AWARDS FOR PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF INFORMATION SYSTEMS AND INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Director of the Office of Personnel Management shall develop policy and guidance for agencies to develop a program to recognize excellent performance by Federal Government employees and teams of such employees in the acquisition of information systems and information technology for the agency.

(b) ELEMENTS.—The program referred to in subsection (a) shall, to the extent practicable—

(1) obtain objective outcome measures; and

(2) include procedures for—

(A) the nomination of Federal Government employees and teams of such employees for eligibility for recognition under the program; and

(B) the evaluation of nominations for recognition under the program by 1 or more agency panels of individuals from government, academia, and the private sector who have such expertise, and are appointed in such a manner, as the Director of the Office of Personal Management shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES.—As part of the program referred to in subsection (a), the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, shall establish policies and guidance for agencies to award to any Federal Government employee or teams of such employees recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law.

Ms. COLLINS. Mr. President. I am pleased to join Senator CARPER in reintroducing a bill that will improve agency performance and Congressional oversight of major federal information-technology, IT, projects. We introduced this bill last Congress and offer it for consideration again because it will strengthen oversight of technology investments to help prevent the waste and misuse of taxpayer dollars.

The well-publicized cost and performance problems with the Census Bureau's handheld computers for the 2010 Census—with its troubling implications for the next House reapportionment and for the allocation of Federal funds—represent only the most recent and conspicuous failure in a long trail of troubles that also includes critical IT projects like the FBI's Virtual Case File initiative.

The 2010 Census is notable among projects that have drawn our attention, not only because of its great scope and expense, but because of its history of unheeded cautions. For years, warnings of potential dangers came from experts sought out by the Census Bureau itself and from the Commerce Department's own Inspector General.

The implications of this lack of proper planning and oversight are evident in the burgeoning estimate for the life-cycle cost of the 2010 Census. The Bureau initially estimated that the 2010 Census would cost the taxpayers about $11.3 billion dollars; today, the estimated cost is more than $14 billion.

Another example is the Department of Homeland Security's, DHS, efforts since 2004 to integrate its financial management systems. DHS spent approximately $52 million on one failed attempt before abandoning the project nearly two years later. According to GAO, this attempt likely failed because DHS had not developed an overall financial management transformation strategy that included financial management policies and procedures, standard business processes, a human capital strategy, and effective internal controls. DHS spent approximately $52 million and now has little, if anything, to show for it.

The Department of Homeland Security is now attempting another consolidation of its financial information technology systems. It is essential that, this time, the Department sufficiently plan and monitor its cost, schedule, and performance targets.

During the 108th Congress, the Committee on Governmental Affairs investigated the botched automated record-keeping project for the federal employees' Thrift Savings Plan, TSP. This project was terminated in 2001 after a four-year contract produced $36 million in waste that was charged to the accounts of TSP participants and beneficiaries. A second vendor needed an additional $33 million to bring the system online, years overdue and costing more than double its original estimate.

In a 2004 letter from the Federal Retirement Thrift Investment Board to the Governmental Affairs Committee, the Board characterized the project as ''ill-fated,'' and acknowledged the importance of careful planning, task definition, communication, proper personnel, and risk management—all of which were lacking on that project.

Large IT project failures have cost US taxpayers literally billions of dollars in wasted expenditures. Perhaps even more troubling is the fact that when Federal IT projects fail, they can undermine the government's ability to defend the nation, enforce its laws, or deliver critical services to citizens. Again and again, we have seen IT project failures grounded in poor planning, ill-defined and shifting requirements, undisclosed difficulties, poor risk management, and lax monitoring of performance.

Unfortunately, as the Government Accountability Office, GAO, continues to report, Federal IT projects still fall short in their use of effective oversight techniques to monitor development and to spot signs of possible trouble.

The GAO reported that the Federal Government spent over $71 billion in fiscal year 2009 on IT projects. Most of that spending was concentrated in two dozen agencies that have approximately 800 major projects underway.

When the GAO reviewed a random sampling of these major Federal IT projects, they found that 85—nearly half the sample—had been ''rebaselined.'' Eighteen of those projects have been rebaselined three or more times. For example, the Department of Defense Advanced Field Artillery Tactical Data System has been rebaselined four times; a Veterans Affairs Health Administration Center project has been rebaselined 6 times.

Rebaselining can reflect funding changes, revisions in project scope or goals, and other perfectly reasonable project modifications. But as the GAO notes, ''[rebaselining] can also be used to mask cost overruns and schedule delays.'' All major federal agencies have rebaselining policies, but the GAO concludes that they are not comprehensive and that ''none of the policies are fully consistent with best practices.''

The bill that Senator CARPER and I are introducing will go far toward addressing the weaknesses identified by the GAO and will reduce the risks that important Federal IT projects will drag on far beyond deadlines, fail to deliver intended capabilities, or waste taxpayers' money.

Our bill will improve both agency and Congressional oversight of large Federal IT projects. For all major investments, the bill requires agencies to track the Earned Value Management index, a key cost and performance measure, and to alert Congress should that measure fall below a defined threshold.

The bill requires additional reports to Congress as well as specific corrective actions should those same indicators continue to worsen. Further, because the bill's performance thresholds are based on original cost baselines, rebaselining can no longer serve as a tactic to hide troubled projects. Where severe shortfalls remain uncorrected, agencies are prohibited from committing additional funds to the project until the required corrective actions are taken.

Our bill would not make Congress a micro-manager of Federal projects—especially in so complex a field as information technology. But it will ensure that, for these important investments, agencies will be required to track key performance metrics, inform Congress of shortfalls in those metrics, and provide Congress with follow-up reports, independent cost estimates, and analyses of project alternatives when the original projects have run off course.

The bill also provides that each covered agency identify to Congress their top mission-critical projects. Those ''core investments'' would be subject to additional upfront planning, reporting, and performance monitoring requirements. This will help ensure that agencies apply extra vigilance to these projects at the planning stage, and not just when execution begins.

In addition to tracking cost and schedule slippage, agencies making

core IT investments must provide a complete ''business case'' that outlines the need for the project and its associated costs and schedules; produce a rigorous, independent, third-party estimate of the project's full, life-cycle costs; have the agency CIO certify the project's functional requirements; track these functional requirements; and report to Congress any changes in functional requirements, including whether those changes concealed a major cost increase.

To help agencies deliver IT projects on time and on budget, the bill also provides two new support mechanisms.

First, agency heads would be required to establish an internal IT-management program, subject to OMB guidelines, to improve project planning, requirements development, and management of earned value and risk.

Second, the Director of OMB and its E-Gov Administrator would be required to establish an IT Tiger Team of experts and independent consultants that can be assigned to help agencies reform troubled projects. In addition, the E-Gov Administrator can recommend that agency heads mentor or replace an IT project manager, reinforce the management team, terminate the project, or hire an independent contractor to report on the project.

These and other provisions will help improve project planning, avoid problems in project execution, provide early alerts when problems arise, and promote prompt corrective action.

In projects where difficulties persist, our bill provides strong remedies. For projects that exhibit a performance shortfall of 20 percent or more, the agency head involved must not only alert Congress but also provide a summary of a concrete plan of action to correct the problem. If the shortfall exceeds 40 percent, agencies have six months to take required remedial steps or else suspend further project spending until those steps are completed.

If the provisions of this bill had been in force during the past decade, early indicators of trouble and prompt warnings to Congress might have helped prevent much of the added cost, decreased functionality, and increased anxiety we now see surrounding the handheld computers that were intended to streamline the 2010 Census. The additional scrutiny of plans and costs required by this bill might have saved some of the billions wasted on other IT projects that ultimately landed on high-risk lists.

I urge every Senator to support this much-needed and bipartisan bill.

By Mr. CARPER:

S. 921. A bill to amend chapter 35 of title 44, United States Code, to recognize the interconnected nature of the Internet and agency networks, improve situational awareness of Government cyberspace, enhance information security of the Federal Government, unify policies, procedures, and guidelines for securing information systems and national security systems, establish security standards for Government purchased products and services, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. CARPER. 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 placed in the RECORD, as follows:

S. 921

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 ''United States Information and Communications Enhancement Act of 2009'' or the ''U.S. ICE Act of 2009''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The development of an interconnected global information infrastructure has significantly enhanced the productivity, prosperity, and collaboration of people, business, and governments worldwide.

(2) The information infrastructure of the United States is a strategic national resource vital to our democracy, economy, and security.

(3) The Federal Government must increasingly rely on a trusted and resilient information infrastructure to effectively and efficiently communicate with and deliver services to citizens, enhance economic prosperity, defend the Nation from attack, and recover from natural disasters.

(4) Since 2002 the Federal Government has experienced multiple high-profile breaches that resulted in the theft of sensitive information amounting to more than the entire print collection contained in the Library of Congress, including personally identifiable information, advanced scientific research, and prenegotiated United States diplomatic positions.

(5) On March 12, 2008 witnesses testified before a hearing held by the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security of the Committee on Homeland Security and Governmental Affairs of the Senate that—

(A) implementation of the Federal Information Security Management Act of 2002 (Public Law 107–296; 116 Stat. 2135) wastes agency resources on paperwork exercise instead of security;

(B) agencies do not fully understand what information they hold, who has access to that information, and whether the information has been compromised; and

(C) agencies lack effective coordination for mitigating and responding to cyber-related incidents.

(6) The Federal Information Security Management Act of 2002 (Public Law 107–296; 116 Stat. 2135) needs to be amended to increase the coordination of agency activities to enhance situational awareness throughout the Federal Government using more effective enterprise-wide automated monitoring, detection, and response capabilities.

SEC. 3. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended by striking subchapters II and III and inserting the following:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3551. Definitions

''(a) Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) In this subchapter:

''(1) The term 'adequate security' means security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to, or modification, of information.

''(2) The term 'Director' means the Director of the National Office for Cyberspace.

''(3) The term 'incident' means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

''(4) The term 'information infrastructure' means the underlying framework that information systems and assets rely on in processing, transmitting, receiving, or storing information electronically.

''(5) The term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

''(C) availability, which means ensuring timely and reliable access to and use of information.

''(6) The term 'information technology' has the meaning given that term in section 11101 of title 40.

''(7)(A) The term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

''(i) the function, operation, or use of which—

''(I) involves intelligence activities;

''(II) involves cryptologic activities related to national security;

''(III) involves command and control of military forces;

''(IV) involves equipment that is an integral part of a weapon or weapons system; or

''(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

''(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

''(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

''§ 3552. National Office for Cyberspace

''(a) There is established within the Executive Office of the President an office to be known as the National Office for Cyberspace.

''(b) There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the National Office for Cyberspace shall administer all functions under this subchapter and collaborate to the extent practicable with the heads of the appropriate agencies, the private sector, and international partners. The Office shall serve as the principal office for coordinating issues relating to achieving an assured, reliable, secure, and survivable

global information and communications infrastructure and related capabilities.

"§ 3553. Authority and functions of the National Office for Cyberspace

''(a) The Director shall develop and implement a comprehensive national cyberspace strategy to ensure a trusted and resilient communications and information infrastructures that—

''(1) enhances economic prosperity and facilitates market leadership for the United States information and communications industry;

''(2) deters, prevents, detects, defends against, responds to, and remediates interruptions and damage to United States information and communications infrastructure;

''(3) ensures United States capabilities to operate in cyberspace in support of national goals; and

''(4) protects privacy rights and preserving civil liberties of United States persons.

''(b) Notwithstanding any provision of law, regulation, rule, or policy to the contrary, the National Office for Cyberspace may—

''(1) direct the sponsorship of the security clearances for Federal officers and employees (including experts and consultants employed under section 3109) whose responsibilities involve critical infrastructure in the interest of national security; and

''(2) employ experts and consultants under section 3109 for cyber security-related work.

''(c) With respect to responsibilities with the Federal Government, the National Office for Cyberspace shall—

''(1) provide recommendations to agencies on measures that shall be required to be implemented to mitigate vulnerabilities, attacks, and exploitations discovered as a result of activities required pursuant to this section;

''(2) oversee the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 3556;

''(3) to the extent practicable—

''(A) prioritize the policies, principles, standards, and guidelines developed under section 3556 based upon the threat, vulnerability and consequences of an information security incident; and

''(B) develop guidance that requires agencies to actively monitor the effective implementation of policies, principles, standards, and guidelines developed under section 3556;

''(4) require agencies, consistent with the standards promulgated under such section 3556 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(5) coordinate and ensure that the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and standards and guidelines developed for national security systems are, to the maximum extent practicable, complementary and unified;

''(6) oversee agency compliance with the requirements of this subchapter, including coordinating with the Office of Management and Budget to use any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

''(7) review at least annually, and approving or disapproving, agency information security programs required under section 3554(b); and

''(8) coordinate information security policies and procedures with related information resources management policies and procedures.

''(d)(1) After consultation with the appropriate agencies, the Director shall oversee the effective implementation of government-wide operational evaluations on a frequent and recurring basis to evaluate whether agencies effectively—

''(A) monitor, detect, analyze, protect, report, and respond against known vulnerabilities, attacks, and exploitations;

''(B) report to and collaborate with the appropriate public and private security operation centers and law enforcement agencies; and

''(C) mitigate the risk posed by previous successful exploitations in a timely fashion and in order to prevent future vulnerabilities, attacks, and exploitations.

''(2) Not later than 30 days after receiving an operational evaluation under this subsection, the Director shall ensure agencies evaluated under paragraph (1) develop a plan for addressing recommendations and mitigating vulnerabilities contained in the security reports identified under paragraph (1), including a timeline and budget for implementing such plan.

''(e) Not later than March 1 of each year, the Director shall submit a report to Congress on the overall information security posture of the communications and information infrastructure of the United States, including—

''(1) the evaluations conducted under subsection (d) for the United States Government;

''(2) a detailed assessment of the overall resiliency of the communications and information infrastructure effectiveness of the United States and the United States Government including the ability to monitor, detect, mitigate, and respond to an incident;

''(3) a detailed assessment the information security effectiveness of each agency, including the ability to monitor, detect, mitigate, collaborate, and respond to an incident;

''(4) a detailed assessment of operational evaluations performed during the preceding fiscal year, the results of such evaluations, and any actions that remain to be taken under plans included in corrective action reports under subsection (d);

''(5) a detailed assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 3554, and recommendations for enhancement;

''(6) a detailed assessment of significant deficiencies in the information security and reporting practices of the Federal Government as applicable to each agency;

''(7) planned remedial action to address deficiencies described under paragraph (6), including an associated budget and recommendations for relevant executive and legislative branch actions;

''(8) a summary of the results of the independent evaluations under section 3555; and

''(9) a detailed assessment of the effectiveness of reporting to the National Cyber Investigative Joint Task Force under section 3554.

''(f) Evaluations and any other descriptions of information systems under the authority and control of the Director of National Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(g)(1) In collaboration with the private sector and in coordination with the Director of the Office of Management and Budget, the National Institute of Standards and Technology, and the General Service Administration, the Director shall develop and implement policy, guidance, and regulations that cost effectively enhance the security of the Federal Government, including policy, guidance, and regulations that—

''(A) to the extent practicable, standardize security requirements (also known as 'lockdown configurations') of commercial off-the-shelf products and services (including cloud products and services) purchased by the Federal Government;

''(B) to the extent practicable, obtain products and services with security configuration baselines consistent with available security standards and configurations and guidelines developed by the National Institute of Standards and Technology;

''(C) incentivize agencies to purchase standard products and services through the General Service Administration in order to reduce the vulnerabilities and costs associated with custom products and services; and

''(D) enable purchasing decisions to reasonably and appropriately account for significant supply chain security risks associated with any particular product or service.

''(2) Not later than 180 days after the date of enactment of the United States Information and Communications Enhancement Act of 2009, and annually thereafter, the Director shall submit a report to Congress that includes—

''(A) a description of the cost savings and security enhancements that can be achieved by using the purchasing power of the Federal Government; and

''(B) recommendations for legislative or executive branch actions necessary to achieve such cost savings.

"§ 3554. Agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated under section 3556;

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(iii) ensuring the standards implemented for information systems and national security systems under the agency head are complementary and uniform, to the extent practicable; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 3556, for information security classifications and related requirements;

''(C) implementing policies and procedures to cost effectively reduce risks to an acceptable level; and

''(D) continuously testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to an agency official designated as the Chief Information Security Officer the authority to ensure and enforce compliance with the requirements imposed on the agency under this subchapter, including—

''(A) overseeing the establishment and maintenance of a security operations capability that on an automated and continuous basis can—

''(i) detect, report, respond to, contain, and mitigate incidents that impair adequate security of the information and information infrastructure, in accordance with policy provided by the Director, in consultation with the Chief Information Officers Council, and guidance from the National Institute of Standards and Technology;

''(ii) collaborate with the National Office for Cyberspace and appropriate public and private sector security operations centers to address incidents that impact the security of information and information infrastructure that extend beyond the control of the agency; and

''(iii) not later than 24 hours after discovery of any incident described under subparagraph (A), unless otherwise directed by policy of the National Office for Cyberspace, provide notice to the appropriate security operations center, the National Cyber Investigative Joint Task Force, and inspector general;

''(B) collaborating with the Administrator for E–Government and the Chief Information Officer to establish, maintain, and update an enterprise network, system, storage, and security architecture framework documentation to be submitted quarterly to the National Office for Cyberspace and the appropriate security operations center, that includes—

''(i) documentation of how technical, managerial, and operational security controls are implemented throughout the agency's information infrastructure; and

''(ii) documentation of how the controls described under subparagraph (A) maintain the appropriate level of confidentiality, integrity, and availability of information and information systems based on—

''(I) the policy of the Director;

''(II) the National Institute of Standards and Technology guidance; and

''(III) the Chief Information Officers Council recommended approaches;

''(C) developing, maintaining, and overseeing an agency wide information security program as required by subsection (b);

''(D) developing, maintaining, and overseeing information security policies, procedures, and control techniques to address all applicable requirements, including those issued under sections 3553 and 3556;

''(E) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(F) assisting senior agency officials concerning their responsibilities under paragraph (2);

''(4) ensure that the agency has trained and cleared personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines;

''(5) ensure that the agency Chief Information Security Officer, in coordination with other senior agency officials, reports biannually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions; and

''(6) ensure that the Chief Information Security Officer possesses necessary qualifications, including education, professional certifications, training, experience, and the security clearance required to administer the functions described under this subchapter; and has information security duties as the primary duty of that official.

''(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3553(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments—

''(A) of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency; and

''(B) that recommend a prioritized description of which data and applications should be removed or migrated to more secure networks or standards;

''(2) penetration tests commensurate with risk (as defined by the National Institute of Standards and Technology and the National Office for Cyberspace) for agency information systems; and

''(3) information security vulnerabilities are mitigated based on the risk posed to the agency;

''(4) policies and procedures that—

''(A) are based on the risk assessments required by paragraph (1);

''(B) cost effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 3556;

''(iii) minimally acceptable system configuration requirements, as determined by the Director; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(5) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(6) role-based security awareness training to inform personnel with access to the agency network, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(7) to the extent practicable, automated and continuous technical monitoring for testing, and evaluation of the effectiveness and compliance of information security policies, procedures, and practices, including—

''(A) management, operational, and technical controls of every information system identified in the inventory required under section 3505(b); and

''(B) management, operational, and technical controls relied on for an evaluation under section 3555;

''(8) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(9) to the extent practicable, continuous technical monitoring for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued by the Director, including—

''(A) mitigating risks associated with such incidents before substantial damage is done;

''(B) notifying and consulting with the appropriate security operations response center; and

''(C) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspectors General;

''(ii) the National Office for Cyberspace; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(10) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) Each agency shall—

''(1) submit an annual report on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b) to—

''(A) the National Office for Cyberspace;

''(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(C) the Committee on Commerce, Science, and Transportation of the Senate;

''(D) the Committee on Government Oversight and Reform of the House of Representatives;

''(E) the Committee on Homeland Security of the House of Representatives;

''(F) other appropriate authorization and appropriations committees of Congress; and

''(G) the Comptroller General.

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management of this subchapter;

''(C) information technology management under this chapter;

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note);

''(G) internal accounting and administrative controls under section 3512 of title 31; and

''(H) performance ratings, salaries, and bonuses provided to the Chief Information Security Officer and supporting personnel taking into account program performance; and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial

Management Improvement Act (31 U.S.C. 3512 note).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the National Office for Cyberspace, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods; and

''(B) the resources, including budget, staffing, and training, that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1) and operational evaluations required under section 3553(d).

''(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3555. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation under this section shall consist of—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the information systems of the agency; and

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines.

''(b)(1) For each agency with an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or any other law, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency.

''(2) For each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(d) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(e) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(f) The Comptroller General shall—

''(1) not later than 180 days after the date of enactment of the United States Communications and Information Enhancement Act of 2009 and after collaboration with the Director and the Inspectors General, develop and deliver standards for independent evaluations as required under this section that are risk-based and cost effective;

''(2) periodically evaluate and report to Congress on—

''(A) the adequacy and effectiveness of agency information security policies and practices; and

''(B) the implementation of the requirements of this subchapter.

''§ 3556. Responsibilities for Federal information systems standards

''(a)(1) The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology under paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), prescribe standards and guidelines pertaining to information systems, including national security systems.

''(2)(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

''(i) to the extent practicable, are unified with standards and guidelines developed for information systems and national security systems to ensure the adequacy and effectiveness of information security and information sharing;

''(ii) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(iii) are otherwise necessary to improve the security of information and information systems, including information stored by third parties on behalf of the Federal Government.

''(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

''(b) The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

''(c) To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget and the National Office for Cyberspace.

''(d) The National Office for Cyberspace and the head of an agency may employ standards for the cost effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

''(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

''(2) are otherwise consistent with policies and guidelines issued under section 3553.

''(e) The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).''.

SEC. 4. AUTHORITY AND RESPONSIBILITY OF THE UNITED STATES COMPUTER EMERGENCY READINESS TEAM IN RELATION TO FEDERAL AGENCIES.

(a) DEFINITION.—In this section:

(1) The term ''agency'' has the meaning given under section 3502(1) of title 44, United States Code.

(2) The term ''US–CERT'' means the United States Computer Emergency Readiness Team.

(b) PURPOSES.—The purposes of this section are to recognize that US–CERT—

(1) is charged with providing response support and defense against cyber attacks for agencies and information sharing and collaboration with State and local government, industry, and international partners;

(2) interacts with agencies, industry, the research community, State and local governments, and others to disseminate reasoned and actionable cyber security information to the public;

(3) provides a way for citizens, businesses, and other institutions to communicate and coordinate directly with the United States Government about cyber security; and

(4) has continually enhanced its ability to monitor, detect, and respond to information security incidents that affect the Federal Government.

(c) COORDINATION WITH US–CERT.—The head of each agency shall ensure that the Chief Information Officer, Chief Information Security Officer, and security operations centers under the direction of that agency head shall establish policies, procedures, and guidance to effectively coordinate with the Director of US–CERT in a timely fashion to detect, report, respond to, contain, and mitigate incidents that impair adequate security of the information and information infrastructure.

(d) REVIEW AND APPROVAL.—In coordination with the Administrator for Electronic Government and Information Technology, the Director of the National Office for Cyberspace shall review and approve the policies, procedures, and guidance established in subparagraph (c) to ensure that US–CERT has the capability to effectively and efficiently detect, correlate, respond to, contain, and mitigate incidents that impair the adequate security of the information and information infrastructure of more than 1 agency. To the extent practicable, the capability shall be continuous and technically automated.

(e) SECURITY CLEARANCES; EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law, regulation, rule, or policy to the contrary, the Director of US-CERT may—

(1) direct the sponsorship of the security clearances for Federal officers and employees (including experts and consultants employed under section 3109) whose responsibilities involve critical infrastructure in the interest of national security; and

(2) employ experts and consultants under section 3109 for cyber security-related work.

SEC. 5. AUTHORITY AND RESPONSIBILITY OF DEPARTMENTS NOT RELATED TO MILITARY FUNCTIONS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency''—

(A) means—

(i) an Executive department defined under section 101 of title 5, United States Code; and

(ii) an Executive agency that has multiple components which have separate and distinct enterprise architectures; and

(B) shall not include—

(i) the Department of Defense; or

(ii) any component of an Executive agency that is performing any national security function, including military intelligence.

(2) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given under section 105 of title 5, United States Code.

(b) PURPOSE.—The purpose of this section is to recognize that—

(1) agencies have developed and maintained separate and distinct enterprise architectures that inhibit the ability of an agency to ensure that components of that agency have effectively implemented security policies, procedures, and practices;

(2) the separate and distinct enterprise architectures have in many instances been at

the detriment of securing the agency information infrastructure (the civilian cyberspace) and exposed that infrastructure to unnecessary risk for an extended period of time; and

(3) a more uniform agency enterprise architecture will be more efficient and effective for the purposes of information sharing and ensuring the appropriate confidentiality, integrity, and availability of information and information systems.

(c) AGENCY COORDINATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the head of each agency shall ensure that components of that agency shall establish an automated reporting mechanism that allows the Chief Information Security Officer and security operations center at the total agency level to implement and monitor the implementation of appropriate security policies, procedures, and controls of agency components.

(2) APPROVAL AND COORDINATION.—The activities conducted under paragraph (1) shall be—

(A) approved by the Director of the National Office for Cyberspace; and

(B) to the extent practicable, in coordination and complementary with activities—

(i) described under section 4; and

(ii) conducted by the Administrator for E-Government and Information Technology.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the matter relating to subchapters II and III and inserting the following:

''SUBCHAPTER II—INFORMATION SECURITY

''Sec. 3551. Definitions.

''Sec. 3552. National Office for Cyberspace.

''Sec. 3553. Authority and functions of the National Office for Cyberspace.

''Sec. 3554. Agency responsibilities.

''Sec. 3555. Annual independent evaluation.

''Sec. 3556. Responsibilities for Federal information systems standards.''.

(b) OTHER REFERENCES.—

(1) Section 1001(c)(1)(A) of the Homeland Security Act of 2002 (6 U.S.C. 511(c)(1)(A)) is amended by striking ''section 3532(3)'' and inserting ''section 3551(b)''.

(2) Section 2222(j)(6) of title 10, United States Code, is amended by striking ''section 3542(b)(2))'' and inserting ''section 3551(b)''.

(3) Section 2223(c)(3) of title 10, United States Code, is amended, by striking ''section 3542(b)(2))'' and inserting ''section 3551(b)''.

(4) Section 2315 of title 10, United States Code, is amended by striking ''section 3542(b)(2))'' and inserting ''section 3551(b)''.

(5) Section 20(a)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended by striking ''section 3532(b)(2)'' and inserting ''section 3551(b)''.

(6) Section 8(d)(1) of the Cyber Security Research and Development Act (15 U.S.C. 7406(d)(1)) is amended by striking ''section 3534(b)'' and inserting ''section 3554(b)''.

SEC. 7. EFFECTIVE DATE.

This Act (including the amendments made by this Act) shall take effect 30 days after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 115—RECOGNIZING THE CRUCIAL ROLE OF ASSISTANCE DOGS IN HELPING WOUNDED VETERANS LIVE MORE INDEPENDENT LIVES, EXPRESSING GRATITUDE TO THE TOWER OF HOPE, AND SUPPORTING THE GOALS AND IDEALS OF CREATING A TOWER OF HOPE DAY

Mr. LIEBERMAN submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 115

Whereas the brave men and women defending America's democracy in Iraq and Afghanistan are in harm's way;

Whereas thousands of America's returning veterans were seriously wounded in combat, including brain injuries, single and double amputations, and other traumatic wounds;

Whereas these brave soldiers return to the United States and spend weeks, months, and years in hospitals recovering, and return to their homes needing assistance to regain their independence;

Whereas these recovering soldiers who are teamed up with assistance dogs lead more comfortable and more independent lives;

Whereas these dogs provide assistance to wounded veterans while walking, going up and down stairs, and getting up from a sitting or fallen position, and also pick up dropped articles, retrieve items from a distance, pull manual wheelchairs a short distance, turn lights on and off, and perform other important daily tasks;

Whereas assistance animals offer priceless companionship and unconditional love on a daily basis;

Whereas there are fewer than 75 veterans from Iraq and Afghanistan who currently have assistance dogs, as many veterans cannot afford them or do not know about the benefits that assistance dogs provide;

Whereas severely wounded veterans currently have to wait up to 2 years before they can receive an assistance animal;

Whereas The Tower of Hope was created following the attacks of September 11, 2001, to bring hope to wounded veterans by providing them with assistance dogs at no cost; and

Whereas The Tower of Hope has substantially improved many lives by raising funds for the training of assistance dogs, providing grants for American combat wounded veterans, and advocating for the benefits of these animals: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the importance of assistance dogs in helping combat-wounded veterans live happier and more independent lives;

(2) applauds the outstanding work of The Tower of Hope and its dedication to training and providing assistance dogs to wounded veterans, as well as educating people about the benefits of such animals;

(3) expresses deep gratitude and support to volunteers and donors who have made this great program possible by generously offering time and funds;

(4) encourages the general public to support wounded veterans by volunteering or donating to help train assistance dogs;

(5) calls for a vigorous promotion of, and advocacy for, the benefits of assistance animals to physicians and the general public; and

(6) supports the goals and ideals of creating a Tower of Hope Day in honor of wounded American veterans and their service dogs, the work of The Tower of Hope, and the many generous donors.

SENATE RESOLUTION 116—COMMENDING THE HEAD COACH OF THE UNIVERSITY OF KANSAS MEN'S BASKETBALL TEAM, BILL SELF, FOR WINNING THE HENRY P. IBA COACH OF THE YEAR AWARD PRESENTED BY THE UNITED STATES BASKETBALL WRITERS ASSOCIATION AND FOR BEING NAMED THE SPORTING NEWS NATIONAL COACH OF THE YEAR AND THE BIG 12 COACH OF THE YEAR

Mr. BROWNBACK (for himself and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 116

Whereas after the University of Kansas men's basketball team won the 2008 National Collegiate Athletic Association (NCAA) Men's Basketball Division I Championship, all the most experienced players on the team went on to graduate or pursue their professional ambitions;

Whereas, despite this challenge, the Head Coach of the University of Kansas men's basketball team, Bill Self, led the 2009 team to an impressive 27–win season, in which the team ended the regular season at the top of the Big 12 Conference, and finished the 2009 NCAA Men's Basketball Division I tournament in the Sweet Sixteen;

Whereas, Coach Self has been a head coach for 16 years, winning 9 league championships in the last 11 years and guiding his teams through 11 consecutive 20-win seasons;

Whereas Coach Self is 1 of only 4 coaches in NCAA Men's Basketball Division I history to have led 3 different schools (the University of Tulsa, the University of Illinois, and the University of Kansas) to the Elite Eight in the NCAA Men's Basketball Division I tournament;

Whereas Coach Self has demonstrated the Kansas values of hard work, determination, pride, and spirit, and has instilled these values in the athletes he coaches;

Whereas during his career at the University of Kansas, Coach Self has coached 11 professional basketball players, and impacted the lives of hundreds of young men;

Whereas in 2009, Coach Self won the Henry P. Iba Coach of the Year Award presented by the United States Basketball Writers Association and was named the Sporting News National Coach of the Year and the Big 12 Coach of the Year; and

Whereas Coach Self is an asset to the country, the State of Kansas, and the University of Kansas: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Head Coach of the University of Kansas men's basketball team, Bill Self, for—

(A) winning the Henry P. Iba Coach of the Year Award presented by the United States Basketball Writers Association; and

(B) being named the Sporting News National Coach of the Year and the Big 12 Coach of the Year; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution for appropriate display to—

(A) the Chancellor of the University of Kansas, Robert Hemenway;

(B) the Athletic Director of the University of Kansas, Lew Perkins; and

(C) the Head Coach the University of Kansas men's basketball team, Bill Self.

SENATE CONCURRENT RESOLUTION 20—AUTHORIZING THE LAST SURVIVING VETERAN OF THE FIRST WORLD WAR TO LIE IN HONOR IN THE ROTUNDA OF THE CAPITOL UPON HIS DEATH

Mr. BYRD submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 20

Whereas the veterans of the First World War fought bravely and made heroic sacrifices for the Allied forces;

Whereas the veterans of the First World War suffered the terrors of both trench warfare and the chemical battlefield;

Whereas the veterans of the First World War suffered the scourge of the Spanish influenza pandemic;

Whereas past resolutions have sought authorization for veterans, representative of specific wars, to lie in honor in the rotunda of the Capitol;

Whereas it is the desire of all veterans to honor both those who serve and those who have served in time of war and peace;

Whereas it is the Nation's collective desire to express its gratitude for the sacrifice and service of all First World War veterans; and

Whereas Frank Woodruff Buckles, born February 1, 1901, in Bethany, Missouri, and residing in Jefferson County, West Virginia, at age 108, is believed to be the last surviving United States veteran of the First World War: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. HONORING VETERANS OF THE FIRST WORLD WAR.

(a) IN GENERAL.—In recognition of the historic contributions of United States veterans who served in the First World War, the last surviving United States veteran of the First World War shall be permitted to lie in honor in the rotunda of the Capitol upon his death, so that the citizens of the United States may pay their last respects to these great Americans.

(b) IMPLEMENTATION.—The Architect of the Capitol, under the direction and supervision of the President pro tempore of the Senate and the Speaker of the House of Representatives, shall take the necessary steps to implement subsection (a), including, if necessary, scheduling the use of the rotunda of the Capitol for the purposes described in such subsection at such a time as such use will not coincide with the use of the Capitol for an Inauguration or a State of the Union address.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, May 5, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate office building.

The purpose of the hearing is to consider the nomination of Daniel B. Poneman, to be Deputy Secretary of Energy, the nomination of David B. Sandalow, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy), the nomination of Rhea S. Suh, to be an Assistant Secretary of the Interior, and the nomination of Michael L. Connor, to be Commissioner of Reclamation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150, or by e-mail to Amanda kelly@energy.senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 9 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 28, 2009, at 10 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, April 28, at 10 a.m., in room SD–366 of the Dirksen Senate office building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 10 a.m. in room 406 of the Dirksen Senate office building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 10 a.m., to hold a hearing entitled ''War Powers in the 21st Century''.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Introducing Meaningful Incentives for Safe Workplaces and Meaningful Roles for Victims and Their Families'' on Tuesday, April 28, 2009. The hearing will commence at 10:30 a.m. in room 430 of the Dirksen Senate office building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Learning from the States: Individual State Experiences with Health Care Reform Coverage Initiatives in the Context of National Reform'' on Tuesday, April 28, 2009. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate office building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 10 a.m. to conduct a hearing entitled ''Cyber Security: Developing a National Strategy.''

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

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''The Victims of Crime Act: 25 Years of Protecting and Supporting Victims'' on Tuesday, April 28, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate office building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 28, 2009 at 2:30 p.m.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to

meet during the session of the Senate on Tuesday, April 28, 2009, at 10:30 a.m., in room 253 of the Russell Senate office building.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Tuesday, April 28, 2009 at 2:30 p.m. to conduct a hearing entitled, ''Government 2.0: Advancing America into the 21st Century and a Digital Future.''

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, April 28, 2009, at 2:30 p.m., in room 253 of the Russell Senate office building.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. I ask unanimous consent that the following Finance Committee staff be granted floor privileges during consideration of the Sebelius nomination: Kelly Whitener, William Martinez, and Michael London.

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

UNANIMOUS CONSENT AGREEMENT—S. CON. RES 13

Mr. DURBIN. I ask unanimous consent that on Wednesday, April 29, following a period of morning business, the Senate begin the statutory debate with respect to the conference report to accompany S. Con. Res. 13, notwithstanding the receipt of papers from the House; further, that when the Senate receives a message from the House regarding S. Con. Res. 13, the Senate then proceed to the consideration of the conference report.

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

ORDERS FOR WEDNESDAY, APRIL 29, 2009

Mr. DURBIN. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Wednesday, April 29; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; further, I ask unanimous consent that following morning business, the Senate proceed as previously ordered.

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

PROGRAM

Mr. DURBIN. Senators should expect a vote on adoption of the budget conference report tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:54 p.m., adjourned until Wednesday, April 29, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

PAUL N. STOCKTON, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE PAUL MCHALE, RESIGNED.

DEPARTMENT OF COMMERCE

REBECCA M. BLANK, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS, VICE CYNTHIA A. GLASSMAN, RESIGNED.

LEGAL SERVICES CORPORATION

LAURIE I. MIKVA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2010, VICE FLORENTINO SUBIA, TERM EXPIRED.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

ROBERT S. LITT, OF MARYLAND, TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE, VICE BENJAMIN A. POWELL, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate, Tuesday, April 28, 2009:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

KATHLEEN SEBELIUS, OF KANSAS, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.