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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

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

Let us pray.

Help us, O Lord, to run when we can, to walk when we ought, and to wait when we must.

Today, give wisdom to our lawmakers. May they leave undone that for which they are not ready as they open their minds to discern Your will. Lord, help them to not pray for tasks fitted for their strength but for strength which fits them for their tasks. Conform their lives more and more to Your likeness. Continue to lift the light of Your countenance upon them and fill them with Your peace.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 10, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period for the transaction of morning business. Senators will be allowed to speak for up to 10 minutes each. There will be no rollcall votes during today's session of the Senate.

HEALTH CARE

Mr. REID. Mr. President, many Americans are fortunate to have health insurance to help them pay for their prescriptions, treatments, or even doctor visits. Like any kind of insurance, we hope we never have to use it, but it is comforting to know it is there. But what happens if the system designed to give us that sense of security and stability is not itself secure or stable? Where does one turn when that certainty is taken away? That is the fear too many middle-class families in America have. They see the jobs around them disappear. For some, one of those jobs may be their own job. They see their paychecks get smaller, or they struggle each week because that paycheck simply does not go far enough. They may have insurance today, but they don't know if they will be able to say the same tomorrow.

Too many families in the greatest country and the largest economy in the world, by far, live just one illness or one accident or one pink slip away from losing that sense of security—their health insurance.

Far too many families have to make a decision when their children get sick: Do they buy them new school supplies or do they buy them clothes? Do they buy some extra groceries for the family or are they going to be able to take them to the doctor? As I say, do they get them new clothes when they grow out of their old ones or do they get the treatment they need to stay healthy or even to get healthy? Far too many hard-working Americans have to make a choice when their doctor gives them a prescription for chronic illness, or what insurance companies like to call a preexisting condition. Do they get that medicine or do they add that little piece of paper to a top of a mounting pile of bills they cannot afford to pay?

What about small businesses, those entrepreneurs in big cities and small towns that innovate, invent, and fuel our economy? They do have a choice to make. Do they hire new employees? Do they lay off more hard-working Americans or do they just simply cancel their health insurance for their employees because it is too expensive? Businessmen and businesswomen do not have a lack of insurance because they are cheap or they do not care about their employees, they do not have health insurance because they cannot afford it. It is too expensive.

Taking your child to the doctor, filling a prescription, and giving your workers health insurance should not have to be choices. They should not end in question marks. That is exactly why we are working to bring stability and security back to health care. Health care reform means making sure every American can afford access and care. Reform means making sure that if you lose your job, your health care will not go with the job you have lost. It means if you change jobs, your health care stays with you. Reforming health care means that if your mother had breast cancer or you had minor surgery last year or your kid gets allergies every spring, your insurance company cannot say: I am sorry, you are just too much of a risk for us to

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

cover anymore. Health care reform means lowering the cost of care and keeping it low. It means improving the quality of care you get and keeping the quality high. It means that premiums you pay every month will not go up just because your insurance company feels as if they should.

Senator PATTY MURRAY of Washington told a story. I was at an event with her yesterday. She got up yesterday morning to find in the Washington press an insurance company that insures 135,000 Washingtonians will have a 17.5-percent increase immediately in their health insurance premiums. That is an average. Some are higher, some are lower. Reform means the premiums you pay every month will not go up just because your insurance company feels like it. It means keeping costs stable so the price of staying healthy does not fluctuate like a gallon of gas. It not only means making sure you can keep going to your family doctor or keep your health care plan if you like it but also that you can afford to do so.

No one can predict when the next accident might come, when one might get laid off. We don't know when we will get sick or when one of our loved ones will get sick. But we can put people in control of their own health care.

A doctor's first job when someone comes into the emergency room is to stabilize the patient. When it comes to addressing the emergency care in our health system, our job is to do the same—stabilize it. We have to cure the uncertainty in health care. We must fix our broken health care system so that when you open your medicine cabinet, you can be certain the prescription you need to get better will be there. When you open your wallet, you should be certain you can afford to go to the doctor. And when you open that small business in your hometown, you can be certain you can hire employees to grow your company, put your ideas into motion, realize your American dream, and have your employees covered with health insurance.

The status quo is ruining our country's financial stability. Right now, one-sixth of every dollar spent in America goes for health care. If we do not change this, by the year 2020—that is a little over 10 years away—it will be 35 cents of every dollar spent will be on health care. It will bankrupt our country. We must change this.

I ask my Republican colleagues: Let's not make this a partisan issue. Let's work together. That is why I so appreciated a number of valiant Republicans on the Finance Committee working together to try to come up with a health care plan that can be supported by Democrats and Republicans in the Senate. We can do it alone. Democrats can do it alone. We do not want to do it alone because it would be under something we call reconciliation, and it changes the rules. And instead of being able to do a large amount of health care, we are only going to be able to do a little health care. We want to work with our Republican colleagues. This is not a partisan issue. People losing their health care are not Democrats, Republicans, or Independents; they are Americans, whether from the State of Oregon or the State of Nevada.

The Presiding Officer represents the State of Oregon. There is extremely high unemployment in Oregon, higher than in Nevada, and we are over 11 percent. In 1 month, we went from 10.4 percent to 11.3 percent unemployment. So the people losing their jobs, losing their health care in Oregon and Nevada and all the rest of the States are not partisans. They want something done to restore their jobs, to get them new jobs, and to give them health insurance, if they do not have it, and make sure it is not taken away from them.

I reach out to my Republican colleagues to join with us in this necessity of doing something about health care. This is not something we are looking for work to do. We are doing it because it is absolutely essential. Right now, I repeat, one-sixth of every dollar spent goes to health care in America. If we do not change this, in just a few years it will be 35 cents of every dollar. We cannot sustain that.

Mr. President, it is my understanding you are going to open morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The bill clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. MCCAIN. Mr. President, I wish to note, in the context of my remarks, the announcement yesterday that the deficit for the first 9 months of this year is now $1.1 trillion, headed for, at the end of this year, $1.8 trillion, perhaps the highest percentage of GDP in the history of this country outside of wartime. We are now in the process of adding amendment after amendment in the HELP Committee without any idea of the cost. As one of my colleagues who proposed a massive expansion of women's health care yesterday said in the committee: It is not the cost that is important; it is the cause. A remarkable approach to the fact that we are mortgaging our children and grandchildren's futures in a fashion which is the commission of generational theft.

Chairman DODD received a new score on his bill last week by hiding the real cost of the bill. A few weeks ago, the preliminary cost was over $1 trillion. Now it is at $900 billion—same bill, just different numbers. On the one hand, we are told reform is urgent and, at the same time, they don't implement the bill for 4 years; conveniently, after the next Presidential election. Then they will tax employers with a job-killing employer health mandate, collect $52 billion from small employers, the engine that will take us out of our recession. Nobody disagrees about the role of small business in our economy. Then this latest proposal hides the cost of the additional hundreds of billions of dollars of Medicaid expansion.

The State of California is offering IOUs to pay their bills. They have a $26 billion deficit. We are going to increase Medicaid's burden on the States to the tune, in the case of California, of several more billion dollars. How are they going to pay for it? It is an impossible task.

I am told that is not about the cost, but it is about the cost. Just as the stimulus package was about the cost, just as the continued bailout of industries such as the automotive industry, banks, financial institutions and anybody who is ''too big to fail,'' when small business people all over America are closing their doors because they are too small to save.

For the first 9 months, the deficit is $1.1 trillion. That is $800 billion greater than the deficit recorded last year. The American people have a right to know what this health care bill will cost, what it will cost now and what it will cost our grandchildren.

The Washington Post today tells us how not to reform health care, in opposing the government insurance President Obama now says is so critical. According to today's Washington Post:

> . . . it would be tragic if this issue were to drag down health reform or make it impossible to secure Republican votes. Restructuring the health-care system is risky enough that Democrats would be wise not to try to accomplish it entirely on their own.

I certainly hope my friends on the other side of the aisle pay attention to that comment. It has turned into a partisan effort, and it is too bad.

From today's Wall Street Journal, ''Democrats Hoodwinked the Health Lobby. Americans's health-care CEOs are being taken for a ride by Congress and their own lobbyists.''

It is a very interesting article by Kimberly Strassel.

> The industry's calculation is that by cutting deals, it can set the terms of its contributions to ''reform'' and even wangle upsides. The insurers came first, promising to squeeze $2 trillion in costs out of the system. Democrats are letting Ms. Ignagni believe

that in return she will get a mandate to require all Americans to carry insurance (which her members will supply) and be spared a public option (which would decimate her industry).

It goes on to talk about Mr. Tauzin who:

. . . came along pledging that drug makers would cough up $80 billion to narrow a gap in Medicare drug coverage. He's been led to think that Washington will forgo its plans to allow drug reimportation or give him a hand on generics.

The word is that the administration is now saying drug reimportation is not important, in exchange for this deal with Mr. Tauzin. How unsavory is that. Drug reimportation will save the American people $50 billion a year. It is a fact. PhRMA, the large prescription drug lobby—a very powerful one here in our Nation's capital—in return for saying they will save $80 billion, the administration in return will give up their support for what would save the American people $50 billion, when the $80 billion they are talking about is purely illusory, to say the least.

The Wall Street Journal article goes on to say:

Democrats have complemented their smiling encouragements with behind-the-scene threats. After retaking the House in 2006, the party made clear that companies that did not hire Democratic lobbyists would not get a hearing in Washington. The ruling party is now seeing the fruits of its bullying. These days a meeting of health-care lobbyists is better described as a reunion of Senate finance Chairman Max Baucus's former aides. Health-care lobbying has been turned on its head: The new cabal of Democratic lobbyists does not exist to protect the industry from Congress. It exists to present Democratic ultimatums to business.

When Senate Republicans last month hosted a meeting to discuss reform ideas, Mr. BAUCUS's office called in a block of these Democratic lobbyists to deliver a message. ''They said, 'Republicans are having this meeting and you need to let all of your clients know if they have someone there, that will be viewed as a hostile act,'' reported one attendee to the Baucus caucus.

Interesting.

All these actions—the White House meetings, the strung-out negotiations, the muzzling—have been taken with one aim: To buy silence. President Barack Obama is committed to a public option. Liberal Democrats intend to make the private sector fund their plans. They figure by the time they drop a bill that contains odius elements, it'll be too late for any industry player—big or small—to cut a Harry & Louise ad.

Industry players this week got a glimpse of how they will be treated. House Energy and Commerce Chairman Henry Waxman dismissed the $80 billion drug deal, claiming it did not have House support, and moreover that the White House ''told us they are not bound to that agreement.''

The question is just how long it is going to take for America's health-care CEOs to realize they are being taken for a ride both by Congress and their own lobbyists. Americans are wary enough about ObamaCare to maybe appreciate some straight talk from corporate America. If only corporate America can find the smarts to give it.

The debate and discussion continues in the House and the Senate. They still haven't found a way to pay for the health care reforms they want to make. It is still around a trillion dollars. We hear everything from a 10-cent tax on soft drinks to the employer benefit proposal which was so strongly derided and attacked during the last campaign. So far we are talking about laying another trillion or two of debt on the American people, in addition to the $1.8 trillion deficit we have already amassed this year.

Again, I urge colleagues and the administration to sit down in true negotiations, in bipartisan fashion together, and maybe we can solve this issue. We all know the quality of health care in America is the highest in the world. But the costs of health care in America and the inflation associated with it are something we must address so that health care is affordable and available to all Americans.

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

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

The bill clerk proceeded to call the roll.

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

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

BIOLOGICS

Mr. BROWN. Mr. President, this week Congress is deciding whether to broaden access to affordable generic drugs for millions of Americans. As we all argue our points, it is important to remember what this issue is all about. Broadening access to generic drugs is not about Republicans or Democrats. It is not even about the drug companies, the biologic makers, or the other pharmaceutical companies. It is about men and women in my State and the State of the Presiding Officer and around the country. Broadening access to generic drugs is about the 192,370 new cases of breast cancer that will be diagnosed in American women this year, and the $48,000 average annually is what it will cost to treat their disease with the biologic drug Herceptin, $48,000 annually. This is about the 1.3 million adults affected by rheumatoid arthritis each year and the $2,000 average annually it cost to treat their difficult disease with the biologic drug Remicade. Broadening access to generics is about the 148,610 men and women diagnosed with colon cancer each year and the $100,000 it costs them each year to treat the disease with the biologic drug Avastin.

Let me mention a few other noteworthy numbers: $1.2 billion represents the average cost to develop a new biotech product; this includes research and development and the costs lost to products that never make it to market. It is not just $1.2 billion for the product itself that makes it to market. It is about the false starts and includes all that too. Continuing, $9.2 billion represents the 2008 sales of Genentech's biologic colon cancer treatment Avastin. I said it cost $100,000 per patient to treat with that drug. Eight billion represents the 2008 sales of Amgen's biologic arthritis treatment Enbrel. Finally, $7 million represents how much money PhRMA spent in the first 3 months of 2009 to lobby Congress; $7 million to lobby Congress in the first 3 months of this year. That is before we started the most intense part of working on this bill.

I encourage colleagues on both sides of the aisle to keep all of these numbers in mind as we go through the debate this week and next week—the numbers of patients who depend on these drugs, the cost to the patients one by one by one for each of these drugs, the amount of money the drug companies, the biologic companies have made on these drugs, and the amount of money they are spending lobbying Congress to have their way on these issues.

Countless Americans cannot afford expensive brandname drugs, known as biologics. These drugs provide promise and hope—and we are very indebted to these companies for developing these drugs; they clearly save lives—these drugs provide promise and hope to those suffering from devastating diseases and chronic illnesses, including cancer, Parkinson's, diabetes, Alzheimer's, and MS.

For example, annual treatment for breast cancer with the biologic drug Herceptin costs $48,000 a year. The annual treatment for rheumatoid arthritis with Remicade, as I said, costs approximately $20,000 a year. These drugs are simply too expensive for so many people to afford.

The average household income in Ohio for 2007 was $46,597. For the patient who cannot afford a treatment, it does not matter if it is a breakthrough and it does not matter if it is lifesaving, he or she simply cannot afford it.

There is currently—to put this in context—no FDA approval process for biogenerics, biologic generic equivalents, comparable to the process that enables generic drugs to compete against their brandname counterparts.

We all have seen the money you can save when you go to your doctor for a typical drug that has a generic substitute. It is the same drug with the same active ingredients, and a physician will encourage their patient to buy the generic equivalent. That is true for the chemical drugs we have had for many years. It is not true for the biologics. There is no generic equivalent. There is no pathway allowed for generics to compete against the biologics.

Absent that process, there is no free market exerting downward pressure on biologic prices, so prices remain high, so prices remain $20,000 a year or sometimes as high as $7,000 or $8,000 a month for some of these biologics.

That is the problem in a nutshell, but behind it—this is all talking public policy up here—but behind it, underneath it, are the lives of hundreds of thousands of Americans, situations in which Americans cannot afford treatments that prevent disability and, in some cases, prevent death.

Early this year, Ohio representatives from the Arthritis Foundation visited my office to talk about soaring health care costs and the limitations of our current system. These individuals spoke of extreme and prolonged physical pain, pain that could be alleviated if only the treatments existed—which they do—and only if they were affordable—which too often they are not.

Biologics provide great promise and hope to those suffering from devastating diseases and chronic illnesses. But absent competition, absent what we call follow-on biologics, absent a generic substitute to compete—but absent competition—countless Americans will be unable to benefit from these medicines.

It would be irresponsible on our part not to pursue a safe and efficient path to biogenerics. And it would be irresponsible on our part to pursue a pathway that allows for over a decade of monopoly protections for brandname products.

We did not do that with the generic drugs, the so-called Hatch-Waxman bill, which everyone in this body is familiar with. Most people at home around our country—most people in Toledo and Akron and Cincinnati and Dayton and Springfield and Mansfield—have benefited from Hatch-Waxman, the generic drug law, which cut prices for brandname drugs 50, 60, 70, 80 percent. But you cannot do that with biologics because we have not written the law to open up the process to allow follow-on biologics, to allow generic biologics, to allow competition in the system.

But next week, as the Presiding Officer knows, in the Health, Education, Labor and Pensions Committee, we have the opportunity to make affordable generic drugs more accessible for our seniors, more accessible for our Nation's middle class, more accessible for the hundreds of thousands—no, the millions—of Americans who are suffering from these diseases. But so many of them are unable to afford these expensive biologics.

Health care reform must broaden access to generic alternatives to biologics, the most expensive kinds of prescription drugs. Failing to do so is not just bad policy, bad public policy; failing to do so means we are letting down millions of our sickest citizens.

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

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

The bill clerk proceeded to call the roll.

Mr. REID. 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.

EXECUTIVE SESSION

NOMINATION OF ROBERT M. GROVES TO BE DIRECTOR OF THE CENSUS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 169, the nomination of Robert M. Groves to be the Director of the Census for our country.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read the nomination of Robert M. Groves, of Michigan, to be Director of the Census.

CLOTURE MOTION

Mr. REID. Mr. President, I now send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Robert M. Groves, of Michigan, to be Director of the Census.

Harry Reid, John D. Rockefeller, IV, Christopher J. Dodd, Arlen Specter, Richard J. Durbin, Mark Begich, Mark Udall, Michael F. Bennet, Jeff Bingaman, Robert P. Casey, Jr., Frank R. Lautenberg, Blanche L. Lincoln, Tom Udall, Bill Nelson, Byron L. Dorgan, Claire McCaskill, Kirsten E. Gillibrand.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. Mr. President, I now ask unanimous consent that on Monday, July 13, at 4:30 p.m., the Senate proceed to executive session, and there be 1 hour of debate prior to a vote on the motion to invoke cloture on the nomination, with the time divided as follows: 15 minutes each for Senators COLLINS, SHELBY, and VITTER, with 15 minutes equally divided between Senators LIEBERMAN and CARPER; that at 5:30 p.m., the Senate vote on the motion to invoke cloture; that if cloture is invoked, then all postcloture time be yielded back and the Senate immediately vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table; no further motions be in order; the President then be immediately notified of the Senate's action; and the Senate resume legislative session.

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

Mr. REID. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are not in morning business.

MORNING BUSINESS

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

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

The Senator from Nebraska.

HEALTH CARE

Mr. JOHANNS. Mr. President, late last week, media reports heralded the decrease in the pricetag of the HELP Committee's health care proposal. But I would suggest that before we uncork the champagne, before we celebrate a great accomplishment, let's study more closely the untold story. I believe we will find accounting gymnastics that have been employed.

While the headlines may have touted a HELP Committee bill that scored at $611 billion over 10 years, the real pricetag, when fully implemented, actually totals about $2 trillion.

That is a big darn difference. An almost $1.5 trillion discrepancy simply cannot be swept under the rug. It is too big to be a rounding error—even in the Federal Government—and too much of a budget buster to be ignored. So where is the difference?

First, the Congressional Budget Office assumes it will take the Federal bureaucrats over 4 years to get the government-run health care and other subsidies up and running. So while the $611 billion score claims to be a 10-year number, essentially it only covers 6 years of the costs.

If you look at the CBO score for the first 10 years after the program is fully implemented, the actual spending is closer to $1.5 trillion. In addition, while the press releases were claiming credit for increased insurance coverage, they were actually leaving out what it actually cost to make that happen.

That euphoric claim that 97 percent of Americans would be covered under the HELP proposal is not even in the HELP Committee proposal. Only in Washington can you assume something to be, take credit for the accomplishment, and then not pay the bill.

The 97-percent statistic is based on an assumption. The assumption is that Medicaid will be expanded up to 150 percent of the Federal poverty level. This expansion is estimated to bring 20 million new people into a government-run health care plan.

However, CBO estimates that it will cost around $500 billion over 10 years. Nowhere is that cost yet considered. And this is only the Federal share of the program. It does not take into account the State taxes that will need to be raised in order for each State to pay its share of this bill.

At one point, I was a Governor. In my own State of Nebraska, this expansion will cost the State taxpayers $73 million a year when they have to assume the costs of the program. That is a lot of money to come up with in these tough economic times.

The American people, I believe, deserve more than budgetary tricks. Let's be honest about what we are trying to do here, and let's be very candid with people about the real costs, the fully implemented costs of the program. Let's also be very upfront about the realities of what a government-run program can or cannot accomplish in actually bringing down health care costs.

Some claim that a government-run plan will serve as competition for private insurance and, thus, will bring down the cost of those insurance premiums. However, the CBO score makes it clear that if a government-run plan competes on a truly level playing field, it is not going to lower health care costs. The only way a government-run program can offer reduced insurance premiums is if they pay providers and hospitals at rates equivalent to current government programs. But this wouldn't cover costs. Instead, it would create cost shifting under private insurance, which is already happening today. CBO cautioned that reducing payment rates would only increase the access problems we have with current government programs.

Currently, we know 40 percent of doctors don't take Medicaid patients. It is not that they don't want to; it is because the rates are so low they don't cover their costs. This directly contradicts President Obama's message: If you like your doctors, you will be able to keep them.

The reality is, on this government program—Medicaid—which is due to insure more, that is not the case. The CBO score actually confirms that many employees would lose their employer-based health care should this bill become law.

Let me put up a chart, if I might.

In fact, the HELP Committee's bill seems to directly encourage employers to dump their employees into a government-run plan. In the committee draft, businesses that employ 25 or more employees would be required to pay an annual penalty, which is shown here, of $750 for a full-time employee, if they choose not to provide private health insurance for the employees. When you do the math, though, this isn't a penalty at all compared to the cost of private insurance.

Looking again at the chart, in 2008, the average employer's cost for an individual in a group plan was $3,983. So putting their employees on the public plan option is actually a savings. It is a savings, as the chart shows, of $3,233 a year for each employee for that employer.

Paying the so-called penalty to get out from underneath the private insurance costs looks like a pretty smart business decision. In fact, I don't think it is a coincidence that a very large retailer recently came out in support of the employer mandate. When I heard this news, my initial reaction was, What is the catch?

Well, I think we found the catch. With over 1.4 million employees, this company reports that 51.8 percent of their employees have coverage through an employee health care plan. If all of these employees end up on the public plan, it would save this company $2.4 billion a year. The employees, members of our middle class, lose their insurance plan and the promise is not kept.

It is no surprise the company does very well: $2.4 billion goes to the bottom line. Also no surprise, this company is supporting an employer mandate. Ultimately, people will not have a choice to keep their employer-based coverage and will not receive the same level of care when their employer dumps them onto the government plan to make their bottom line look better. This will directly impact the ability of the middle class to choose the doctor they want. It will inject government bureaucrats into their medical decisions because they have no choice. It is an employer's choice to move you to the government plan. To promise otherwise is misleading.

False promises will not help us achieve true solutions. Congress has been tasked with solving this problem, and we must work together to resolve the problem of reining in soaring costs. Adding another $2 trillion entitlement program onto a budget that is already in serious trouble doesn't make sense.

The American people have sent us to Washington to identify the problem and fix it, not exacerbate it. Let's not put together bad policy and end up with another financial debacle. This time there is far more than money on the line. Americans treasure their ability to choose their doctors, to receive treatment, to have control of their life. They don't want a Federal bureaucrat in the middle of it. So let's be candid with the American people and put together a good bill that actually addresses the real problems. Let's get it right this time.

Mr. President, I yield the floor.

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

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

HEALTH CARE

Mr. KAUFMAN. Mr. President, I rise today to talk about health care and why Congress needs to pass reform now.

There are three simple truths to healthcare reform:

First, if we don't pass healthcare reform this year, the stars will not align for another opportunity to pass a major reform bill for years and years to come.

Don't kid yourself: The last time Congress failed to pass major health care reform, 15 years passed until today.

If the Congress fails to enact a health care reform bill this year, with a new President in his first year in office who has a strong relationship with Congress, it simply will not be done until years from now when the system has collapsed into truly catastrophic shape.

And that leads to the second simple truth: We must pass reform now because the consequences of failure are not that we will be stuck with the health care system we have today. The consequences of failure are a very ugly health care reality our system is quickly becoming.

Our health care system has become a gigantic resource-eating machine which over time sucks in more money and yet delivers fewer options and decreased quality care, rising premiums, uncertain coverage, decreased quality.

That is the reality.

The comparison of failing to enact reform is not to the system we have today but to a very ugly destiny we will face relatively soon.

For example, if we do nothing, by 2016 health care premiums are projected to grow to an average of $24,000 per family. Let me repeat, by 2016, $24,000 on average for health care costs per family every year. That is simply unacceptable.

The third simple truth of health care reform is that if you like what you have today, we need health care reform so you can keep it.

We need reform to maintain stable coverage that can't be taken away from you; to maintain stable costs, that will not eat away at your paycheck and will not put coverage out of reach; and to maintain stable quality, so you get the treatment you need, when you need it, and from the doctor you choose.

Only reform keeps and improves on the best of our current system. Failure to act pleads to a catastrophic health care future. I am not exaggerating.

This is where we are. The pressures on the system are building. If we fail to act now, those pressures will cause rising costs, decreased choice, the loss of access to current quality health care and basically worse health care outcomes across the board than we face today.

Let me add some additional statistics and projections.

Health care spending is swallowing up our gross domestic product, GDP. In 2009, health care will account for 18 percent of our GDP.

Eighteen cents of every dollar we spend is dedicated to health care. If we do nothing, this will rise to 28 percent of GDP in 2030 and 34 percent in 2040. This trajectory is unsustainable.

Today, the average premium for family coverage is just over $12,000—an increase of 119 percent in 9 years. As I

said, if we sit by and do nothing, by 2016, a family premium will be estimated to cost at least $24,000—another increase of 83 percent. And in my home State of Delaware, it will be even higher, with a family insurance policy purchased through an employer estimated to cost over $28,000.

Can you imagine paying for that? And that doesn't even include out-of-pocket costs such as deductibles and copayments. When health insurance premiums grow at a rate five times as fast as wages, something has to change.

There also has been an increasing prevalence of medical bankruptcies. A recent study published in the American Journal of Medicine showed that bankruptcies involving medical bills now account for more than 60 percent of U.S. personal bankruptcies, an increase of 50 percent in just 6 years.

In fact, more than 75 percent of families entering bankruptcy because of health care costs actually have health insurance. Most are middle-class, well educated, and own their homes. They just can't keep up with the alarming rise in out-of-pocket costs associated with medical care.

Passing health care reform is important, but not easy. But for the reasons I have mentioned, this year is different. This year, the call for reform is coming from people and organizations that in the past opposed reform.

This year businesses, unions, insurers, provider groups and patient advocacy groups are all looking for reform.

And why is that? Because the growing healh care dollars involved threaten virtually to bankrupt us all. We need reform to stabilize the system.

I think it is important to keep in mind that this is not just about an alarming set of numbers, statistics and cost projections.

Behind all these numbers are real people who need quality and affordable health care, including people who struggle every day to get health care or keep the health insurance they already have.

Let me take just a few minutes to talk about some people from my home State of Delaware and why we need health reform for them, as well as for millions of Americans like them in all parts of the country.

We need health reform because of people such as Angela Austin.

Angela is a recent mother who lives in Dover. She works as a bartender. Most of her earnings come from tips. She doesn't get health insurance through her employer. When Angela became pregnant she tried to find private health insurance, but she was repeatedly denied coverage because her pregnancy was considered a preexisting condition. She applied for Medicaid—to find prenatal care for herself and the baby—but was denied coverage because she earned $200 more than the monthly income limit allowed. She called organizations and clinics and was unable to find a payment plan she could afford.

Midway through her pregnancy, Angela decided to cut back her work hours so she could qualify for Medicaid. Thankfully, Angela was finally able to get services at Christiana Care's Wilmington Hospital, where they provide prenatal care and delivery on a sliding scale for those who can't afford insurance.

She worked all 9 months of the pregnancy and delivered the baby on May 27. The Medicaid coverage was especially crucial because she had complications from hyperthyroidism and was able to get the necessary prescriptions to control the condition.

The sad part of this story is that when Angela was so anxious that everything possible be done to insure a healthy baby, the system threw up road blocks. Pregnancy should not be considered a preexisting condition. What is more, no one should be denied coverage because of a prexisting condition, and no one should be forced to choose poverty to qualify for Medicaid.

We also need health reform for small businessmen such as Ian Kaufman of Georgetown. By the way, Ian is not a relative of mine.

Ian moved to Delaware right out of college in 1990. He was laid off from his job this past January and decided to start a small business. In the process, Ian picked up COBRA coverage to ensure that his family maintained their health care insurance.

When he first signed up for the COBRA coverage, his monthly premium was $1,800. That is a lot of money. Thanks to the COBRA provisions in the Recovery Act, Ian saw his payments reduced by 66 percent—which made his monthly premiums much more manageable.

However, this premium assistance will run out sometime this fall, and he will once again have to pay $1,800 a month.

In anticipation of higher COBRA payments, Ian applied for coverage from Blue Cross and Blue Shield but was turned down. They never gave him a reason for denying him coverage, but he suspects it was because of a pre-existing condition of one of his daughters.

Ian worries that the high cost of providing health care for his family, in addition to the difficulty of even finding a willing policy provider, will affect his ability to stick with his startup business.

Unfortunately, Ian's health insurance predicament as a self-employed businessman is not uncommon. There are too many sole proprietors and small businesses that cannot afford health policies for themselves, their families and any employees they might have. It should not be this way.

But it is not always just a problem of finding private health insurance. We also need health reform for people such as Bonita Sponsler from Dagsboro so they don't slip through the cracks of our existing safety net of Medicaid and Medicare.

Bonita was laid off from her job in March 2007. Three weeks later she suffered a brain aneurysm. Bonita applied for Social Security disability and was awarded benefits, but as with everyone who qualifies for such coverage, she has to wait 2 years before Medicare coverage kicks in.

Meanwhile, Bonita has suffered two additional aneurysms since her initial episode, and it is advised that she receive an arteriogram to monitor her condition. Unfortunately, she can't afford to pay the several thousands of dollars it costs for an arteriogram, so she is taking her chances until she becomes eligible for Medicare in October. This a considerable risk due to her propensity for aneurysms, but it is the only option she can afford. In fact, she has had to cancel a scheduled arteriogram in September because she still would not have coverage by then. It should not be this way.

Finally, we need health reform for people who pile up insurmountable debt, many times due to accidents or injuries they never caused and couldn't avoid.

Without using her name, I want to highlight the situation of a Delaware woman who is a victim of domestic violence.

She suffered major eye damage and has had three surgeries. She has no health insurance and by late 2008 owed almost $30,000 in hospital and anesthesia bills, in addition to $6,000 in personal bills.

She received lost wages from the Violent Crimes Compensation Board. She applied for Medicaid but was turned down. She then applied for Social Security disability but was also turned down as her eye condition was not considered to be permanent and could be repaired with additional surgery.

After waiting many months, she was finally able to get the eye surgery she needed because the doctor who performed the procedure reduced the fee from $12,000 to $3,000 and allowed her to go on a payment plan.

However, she still owes $20,000 to $30,000 for the prior surgeries. She is presently not working and does not have health insurance. She could have had COBRA following the loss of her job, but it was $890 a month and she could not afford it. She presently can see well enough to drive. However, she is due for yet another surgery and the financial arrangements for that will again be extremely difficult if not impossible. It shouldn't be this way.

These stories help to show why we can no longer wait for health reform.

These stories require us to put our differences aside and come together to make certain that Americans have access to affordable, quality health care when they need it.

In my short time in the Senate, I have had the pleasure of presiding over the floor at the President's desk. I have listened to many of my colleagues give good, passionate speeches staking out their position on where we need to go

on health reform. I can truly say I have learned a lot from those speeches, many of which have helped shape my own views on the health reform debate.

That said, I have also heard some speeches that give me cause for concern, as some colleagues seem to have prejudged the legislation before it has even appeared.

I have heard about the dangers of a British or Canadian-style government-run health care system.

I have been warned about rationing and bureaucrats getting between Americans and their doctors.

I have listened to stories about patients from other countries that come here to get care they can't receive in a timely manner back in their own country.

I have heard over and over about a government-run takeover of health care.

I do not doubt the sincerity of my colleagues who see potential pitfalls in health care reform. But when I hear these speeches, I often wonder what legislation they are warning us about.

So far, I have not seen any bill being discussed in committee that calls for a government-run, single-payer system such as Canada or Great Britain.

I have not seen any legislative text that puts restrictions on what treatments doctors can provide or what they can discuss with their patients.

I have not read any language that rations any sort of health care.

I hope that the fears about change in our health care system do not hurt our chances of enacting reform this year.

I hope the debate over the bill is centered around what is actually in the legislation, not extrapolations about provisions in the bill or frightening projections of a health care system in other countries that are not actually being proposed here in Congress.

I hope that as the debate moves forward, all of us in the Senate will step back, take a breath, and remember why we need to reform health care. We are moving quickly toward a health care system that Americans will no longer be able to afford. The system is quickly hurtling out of control.

Yes, we do need to keep what works, and we need to fix what is broken.

We need to make certain that Americans can get affordable health insurance without worrying about preexisting conditions.

We need to help Americans avoid bankruptcy because of out-of-control medical bills.

We need to ensure stability in the system so that Americans maintain insurance options and their choice of doctor.

Most important, we as a country need to take control of our health care destiny. We can have a future in which Americans can have stable coverage, with stable costs and stable quality. Or if we do nothing, we will have a future of rapidly increasing premiums, uncertain coverage and decreased quality.

I urge my colleagues to gather their collective will, realize what is best for our country and do the right thing during this historic opportunity by passing health care reform.

I yield the floor.

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

HEALTH CARE REFORM

Mr. KYL. Mr. President, I wanted to deliver these remarks on the same subject of health care earlier in the week. I had been back home in Arizona during the July recess and had spoken to many of my constituents about the subject. I didn't have the opportunity to address this subject until today. I note that health care is very much on their minds. They have been asking a lot of questions. My constituents have been following the health care debate, and the majority I have spoken with are very much in favor of reform.

I think all of us in this body realize there are things we have to do to lower the cost of health care and ensure everybody has an opportunity to be covered.

I can also tell you they are very concerned about the reforms that have been proposed by the President. They wonder whether they, in fact, will work to their best interests. Cost is an issue that has come up repeatedly when I have spoken with my constituents. They want to know why we have to spend so much money in order to—allegedly—save money and how much it will cost. I tell them it is projected to cost at least a trillion dollars. This is not a fanciful figure; this is what the two bills pending before the Senate are being scored at, meaning that the Congressional Budget Office has said that is about how much they are going to cost. The ultimate price tag could be even higher because in the case of one of the bills, not everything that is going to be in it has already been scored by the CBO, and as to the Finance Committee bill, it is still very much a work in progress.

The usual reaction people have to a trillion dollar-plus health care bill is that they cannot believe we would want to spend that much money or that we can't afford to spend that much. They know already that there are only two ways the Federal Government can pay for such a massive program: one, either borrow more money or, two, impose new taxes or some combination of the two. Naturally, they don't like either alternative.

Most Arizonans think Washington has already borrowed more money than taxpayers can handle, after the President's $1.2 trillion stimulus bill, the $400 billion Omnibus appropriations bill, and the $3.4 trillion, 10-year budget. Now we hear talk about adding an additional trillion dollars on top of that. The folks in Arizona think that is just too much. In fact, by the end of the fiscal year, our publicly held debt will be about 57 percent of our gross domestic product, and deficits of a trillion dollars a year are projected for the next decade. We just got the statistics for the deficit this year. It is already at $1.1 trillion. By the end of the year, it could easily be another half-trillion dollars above that. This will drive the debt to at least 82 percent of the gross domestic product by 2019. To give you an idea of what that means, the GDP is how much money we make as a country. It would be the same as saying that for a family that has an income of $100,000, its credit card debt is $89,000. Try paying off an $89,000 credit card debt on a $100,000 income. The interest payments on the debt will soon make up the single-largest item in our budget. So, obviously, when we talk about spending another trillion dollars we don't have, my constituents are very wary of this. They are wary about the debt, and, to say the least, they don't think it is fair for Washington to pass another trillion-dollar bill, with the costs being transferred to our children and grandchildren—especially after what happened with the stimulus, which has, frankly, included a great deal of waste and obviously has failed to contain unemployment.

A lot of folks have expressed skepticism that spending another trillion dollars is the right way to reduce health care costs. Frankly, I agree with them. Somebody has to pay the trillion dollars. They are also concerned about the new taxes that have been proposed to pay for this because, in fact, part of this trillion dollars is proposed to be paid for through new taxes. There have been all kinds of ideas proposed, such as a tax on beer, soda, juice, and snack food. Those are really small items, but they hit people right where it counts when they go to the grocery store.

There is also a new value-added tax idea. This hits the small business men and women, who are especially concerned because of the new taxes that some are suggesting they should pay—as much as a 10 percentage point increase in the amount of taxes they would have to pay. This is important because, in our economic downturn today, we know it is small businesses that are going to create the jobs that will bring us out of the recession. This would not be just a job killer but an economic growth and recovery killer with that kind of tax imposed on these folks.

My constituents want to know—and, frankly, I want to know—if the President will fulfill his campaign pledge not to raise taxes one single dime on the middle class and whether he will veto any legislation that includes the kinds of taxes of which I am speaking that would fall directly on families. They believe and I believe there ought to be a different way to achieve the health care we want—in other words, without this new round of spending and taxes.

They have heard the President argue in his pitches for Washington to change our health care system that if we spend

all this money on health care now, we will somehow save money later. Americans have some commonsense questions about this claim: How will the government actually do this? Will their health care be rationed? If they are privately insured, will they be able to keep the health care they already have? Eighty-five percent of persons are already insured and are happy with what they have. Yet proposals in the pending legislation would cause many of them to lose that insurance and go onto government programs. That, of course, then raises questions like rationing, as I have discussed many times before.

A Washington-run health care system would likely try to suppress costs by denying or delaying care. Administration officials are already talking about using comparative effectiveness research for this purpose. This is not a fanciful or hypothetical notion. As we know, this is exactly what has happened in countries such as Canada and the United Kingdom, two countries with government-run health care systems. In a ''20/20'' health care segment, they reported that Norwood, Ontario, holds a lottery each week to give one winner a trip to a family doctor. The show filmed the town clerk pulling a name from a box and calling the name of an elated winner. Is that what we want in the United States? The average emergency room wait in Canada is 23 hours—if you are even considered sick enough to be admitted. In Britain, in 2007, the government set a goal to reduce the average wait time to see a physician to fewer than 18 weeks. That is 4½ months waiting to see a doctor. Do Americans want that?

That is how government-run health care works: You make something free and demand soars. To reduce costs, bureaucrats deny or delay treatment or tests or procedures they deem too expensive. The way it works is simple: You set a budget of how much you are going to spend on health care every year. It doesn't matter how sick your folks get; it has to fit within that budget. Think about that for your family. Say you set a budget and you are going to spend no more than $5,000 on health care this year. A good friend of mine in Arizona had an automobile accident; it was very serious. He had to have his spleen removed. He is still in recovery, and it is obviously going to cost a lot of money—more than $5,000. Well, if he set a budget and said that is all he is going to spend, what is he to do? Does he not get the treatment he needs as a result of that accident? You cannot reform health care or reduce costs by rationing care to patients.

One of the things Republicans will insist on is that the way we do the reform doesn't hurt what we already have, which is a system that allows you to get to the emergency room and allows you to see a doctor. You can choose your own doctor. If you have insurance, you get to keep it. We don't want to take care of the few who are unable to get insurance today in a way that requires us to change what everybody else has, if it is already working for them.

It is true that you won't find the words ''ration'' or ''denial'' of care or ''withholding coverage'' in these bills. Obviously, they don't state it that way. But the results are precisely what are required by the policies in the bill. The results are easily masked by all kinds of terminology, but the rules, the forms, the legal obligations, and the provider reimbursement schemes all result in the ability of the government to tell you whether something is going to be covered, whether you and your doctor think it is necessary for your care or not.

I have heard some respond by saying that at least in the Canadian system they may ration care, but everybody has access to a doctor. Not true. The Fraser Institute, a Canadian think tank, released a study this year that found that 1.7 million people—out of a country of 33 million—were unable to see a physician in 2007. That number does not include those who have a doctor but are on a waiting list.

As I said earlier, many of my constituents also worry about losing their current coverage if a new Washington-run health care system is implemented. True, they have heard the President say repeatedly that if you have health insurance, you get to keep it. But they have also heard the other side of the story, and I have read at least one of the bills—in fact, there are two specific provisions—that render this statement untrue—that if you have health insurance, you get to keep it. Not true. The Congressional Budget Office has estimated that just part of one of the proposed plans shows that millions of people would lose their existing coverage and be told to enroll in government health care. The Lewin study specifically mentioned 119 million people who would be shifted from their current employer-provided coverage onto the government plan.

Many of my constituents also want to know if the President would veto legislation that has the potential to cause Americans to lose the private insurance they currently enjoy.

There is a final concern, and this concerns me. It goes to America's seniors. We have made some very strong commitments to our seniors through the Medicare Program. Our seniors obviously are more susceptible to needing health care. They have a greater number of health concerns than younger Americans. And we have said to them: We will, through Medicare, ensure that your health concerns will be taken care of. They are obviously very concerned about rationing if Medicare were somehow to be cut in order to raise money to solve the problem for others in our society. That is precisely what at least one of these bills proposes to do—cut Medicare and take that money and apply it to the new costs that we are going to be incurring as a result of this so-called health care reform.

Seniors are worried these cuts in Medicare will adversely affect their ability to get care. They also fret that adding the 47 million uninsured Americans—which would be just for starters—to health insurance rolls, including government insurance rolls, would impact the care they now receive by crowding the system. In other words, leading to wait times, rationing for them or even potentially denial of care. We must not implement a new health care system that would suddenly erode the quality of care for Medicare beneficiaries.

My constituents want high-quality, patient-centered health care. Most already have good health insurance for themselves. They are concerned about its cost. They are also concerned that there are some who need to be insured who are not. But what they want to hear are fresh new ideas about how to achieve this result without, in effect, throwing the baby out with the bathwater; without adversely affecting the system that currently takes care of them, whether it is seniors being cared for in Medicare or it is the vast majority of Americans who are already insured and like the insurance they have. They do not want us to rush a costly new plan through the Congress.

I think the President was correct when he said: If we don't do this quickly, we might not do it at all. Well, what did he mean by that? In effect, what he was saying is that if the American people have a long enough time to study and debate exactly what is being proposed, they may not like what they see. I think that is exactly what is happening here.

There is a bill that is going to be marked up next week in the House of Representatives, and I don't think the American people are going to like what they see in that bill. We have a bill that has been marked up in the HELP Committee in the Senate, and much of my criticisms go to that particular bill. There is one section in that bill, for example, that spends $400 billion over 7 years to subsidize health care for families making between $66,000 a year and 80,000-some dollars a year. Is that what we want to cut Medicare to pay for?

As I said, the more Americans understand the details of these bills, the more questions I think they are going to ask. We owe it to our constituents to allow them the time to understand it and to ask us those questions. I want to be able to go back to Arizona and say: All right, here are the three bills—or two bills or however many there are—and here is what they do. Do you like it or not? If not, how would you change it? We need the time and the ability to get the reaction from our constituents if we are going to be true to our position as representatives of the people.

So when the President says: If we don't do this quickly, we might not do it at all, he is probably right. But it is better to get it right; to take our time

to do it right and not make mistakes, than to rush something through that is going to add $1 trillion in new spending; that is going to potentially impact the coverage we already have, potentially impact Medicare for our seniors and perhaps not achieve the results we want. This is one of the most important things this Congress—the American Congress—will have done in years. It is complicated, it is hard, and we have to get it right.

One of the first things a physician learns in medical school, when confronting a patient to see what is wrong with that patient and to begin the treatment, is to, first, do no harm. It is possible to do harm to a patient. So the physician, first of all, is admonished: The body is a wonderful thing, it recovers pretty well; don't do anything to harm. The same thing is true with our economy and with the policies with respect to health care. There are a lot of good things being done in health care—physicians are working very hard to take good care of us, most people have good insurance, seniors rely on Medicare. Let's not do harm to what we have in order to take a small segment of our population and make sure they can get insurance.

That is the primary position we are taking when we say: Let's don't rush this. Let's do it right. At the end of the day, we can all be proud of the fact that we have reformed our health care system to reduce, not increase, some of the expenses and to ensure that those who don't have insurance can, in fact, be covered.

I said I wished to give these remarks earlier in the week, having talked with a lot of my constituents in Arizona. I also wished, toward the end of this week, to comment on the President's trip to Russia. He is going to be returning home soon, and his trip to Russia produced some very important announcements, which I wished to discuss today.

PRESIDENT OBAMA'S VISIT TO RUSSIA

I am going to switch subjects now and discuss the President's trip to Moscow and his summit with the President of Russia.

The most significant object of that summit, as we know, was the discussion of further strategic arms reductions. I personally believe it is important that the verification and confidence-building measures of the 1991 START agreement not expire without some measure to continue them, possibly including a legally binding replacement treaty. I know that is one of the purposes of the President's visit. But I am also cognizant of the fact that a follow-on to the 1991 START agreement does not address the most current threats to the United States and the West; namely, those posed by nuclear proliferation and nuclear terrorism. The two subjects are barely related.

For example, the threat from Iran and the history of Russian support for the Iranian nuclear weapons and ballistic missile program is well known. It is probably even going on today. This should have been at the top of the President's agenda with Russia, if, in fact, he is going to address the threats that are most currently before us, rather than a decades-old arms control agreement with Russia.

Additionally, there is the ongoing nuclear weapon ambitions of North Korea. Some press reports suggest it may be sharing its technology with countries such as Syria and Burma. Given the well-known willingness of these rogue states—and I speak of North Korea and Iran—to support terrorism, their unchecked nuclear ambitions will surely hasten the day when terrorists are able to acquire nuclear weapons. I believe nuclear proliferation and nuclear terrorism are the greatest threats to our Nation today, and we should be focused much more on those threats, as I said, than going back and negotiating an arms control agreement with Russia, which obviously is not a current threat to the United States.

The main focus of the President's trip when he was in Moscow appears to have been on the subject of a strategic arms reduction treaty with Russia. That being the case, the Senate has a great responsibility—if the administration seeks our advice and consent by submitting the treaty to us for ratification—to understand what the proposal is and to provide our advice to the President before it is negotiated and, if appropriate, our consent to ratify. Obviously, the Constitution requires this process of advise and consent when it comes to treaty making.

Here are some of the questions I think we need to answer. First of all, what does the United States get from such a new treaty when it appears that the Russians are on their way to reaching the levels of weaponry announced without a treaty? They are going to do it anyway.

Second, why has the United States bent to Russian demands to take tactical nuclear weapons off the table when the Russians have a 10-to-1 advantage in tactical nuclear weapons over the United States and have openly talked in their military doctrine about using tactical nuclear weapons in conflict?

How will the administration provide for the modernization of U.S. nuclear forces, including the warheads and the complex of infrastructure that sustains them and the nuclear weapons delivery systems, the bombers and the missiles and submarines that must accompany any START ratification process? That is perhaps the most critical question of all.

A number of these questions and recommended courses of action have recently been articulated by some of this country's leading experts on arms control and nonproliferation policy, including Ambassador James Woolsey, Dr. Fred Ikle, Ambassador John Bolton, and many others.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a document entitled ''U.S.-Russian START Renewal Negotiations: Guidelines to Protect U.S. Interests.''

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

(See exhibit 1.)

Mr. KYL. I thank the Chair.

I also urge my colleagues to study materials recently released by the New Deterrent Working Group involved with the Center for Security Policy, a respected think tank here in Washington, that has studied these issues for years; and also a very objective and important guide for how we should approach our thinking on these negotiations from the Hudson Institute. These are outstanding compilations of expert opinions for Senators to familiarize themselves with as we head into a treaty ratification process. They are too lengthy to insert in the RECORD, but I am happy to provide these papers to any of my colleagues who would like to read them.

Another important question concerns missile defense. Just before the summit, it appeared the White House was taking a strong line in refusing to accept Russian demands to link missile defenses with a follow-on treaty. The Russians have said: We are not even going to talk about the START numbers unless we can also talk about U.S. missile defense. The Russians don't like it. They would like to have us put some limitations on that. The administration recognized not only should there be no constraint on the development of missile defenses, but, moreover, any treaty—any treaty—that limits U.S. missile defenses would be dead on arrival in the Senate if we tied the two subjects together.

This past week, I joined Senators WICKER, JOHANNS, MCCAIN, HATCH, LIEBERMAN, BEN NELSON, and BEGICH in sending a letter to the President in which we confirmed that ''linking missile defense plans to offensive force negotiations runs contrary to American strategic interests and would undermine our security.''

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to which I just referred.

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

U.S. SENATE,
Washington, DC, July 2, 2009.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In anticipation of your upcoming visit to the Russian Federation, we write to express our concern about recent comments by Russian leaders suggesting limitations on U.S. missile defense plans in Europe as a prerequisite for agreeing to a successor to the Strategic Arms Reduction Treaty (START). We urge you to not combine discussions about U.S. missile defense efforts and the ongoing START negotiations.

Speaking on May 20, Russian Foreign Minister Sergey Lavrov said that an agreement on a START replacement would be ''impossible . . . without taking into account the

situation in the missile defense sphere.'' Russian President Dmitry Medvedev also noted during an April speech that ''(a)nother aspect of security is the relationship between offensive and defensive weapons.'' Prime Minister Vladimir Putin likewise suggested a quid pro quo between START and missile defense during a visit to Japan on May 10, when he said that ''Russia will link missile defense to strategic offensive armaments.''

We feel strongly that linking missile defense plans to offensive force negotiations in this way runs contrary to America's strategic interests and would undermine our security. As you have noted, the planned European missile defense system is limited in scope to defend the United States and its allies against the rising threat posed by Iranian long-range ballistic missiles, but it poses no threat to Russia's strategic missiles.

We support your determination to bring into force a follow-on agreement to START prior to its lapse on December 5th of this year. However, we will be reluctant to support any agreement that is explicitly conditioned on U.S. abandonment of missile defenses in Europe or otherwise linked to a U.S. decision to curtail or abandon those defenses.

Given that negotiations for a follow-on treaty to START are being conducted on a relatively short timeline, we believe that the paramount goal this year is to ensure that the verification and confidence building measures from the 1991 START treaty do not lapse.

The United States and the Russian Federation will need to find ways to cooperate on many issues in the coming years and we hope that your representatives bear in mind the broader strategic context in which these negotiations with Moscow are taking place.

Sincerely,

James M. Inhofe, Joseph I. Lieberman, Jon Kyl, Ben Nelson, John S. McCain, Mark Begich, Jeff Sessions, Mike Johanns, Roger Wicker, Orrin Hatch, United States Senators.

Mr. KYL. Notwithstanding what I have said, buried in the joint understanding—which has now been made public—reached by President Obama and Medvedev is inclusion of the following language suggesting an accession to the Russian demand to include missile defense in the follow-on treaty:

A provision on the interrelationships of strategic offensive and strategic defensive arms.

I ask unanimous consent that the text of the Joint Understanding be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. KYL. This last statement is a dangerous connection to make and one the administration must not negotiate. U.S. missile defenses exist to protect against ballistic missile threats by rogue regimes and the threat of accidental or unauthorized launches. They are not about Russia. Consequently, we should not allow Russia to attempt to limit our defenses, and that is what I fear these words from the Joint Understanding may allow to occur. Such a linkage in the START agreement will be rejected by Members of the Senate.

I would also like to call attention to a curious statement by the President which was quoted in this past Sunday's New York Times:

It's naive for us to think that we can grow our nuclear stockpiles, the Russians continue to grow their nuclear stockpiles, and our allies grow their nuclear stockpiles, and that in that environment we're going to be able to pressure countries like Iran and North Korea not to pursue nuclear weapons themselves.

The fact is, the United States has not been growing or even modernizing its nuclear stockpile. Why did the President make such a false statement? Yes, the Russians are growing theirs, at least modernizing it. Britain and France are modernizing their stockpiles, though not growing them, as far as I have seen in the press. India, Pakistan, and North Korea are all growing their stockpiles; and, of course, we are all familiar with Iran's actions. All of this has occurred in the absence of the United States growing its stockpile. What the President said is not true. In fact, it has all occurred while the United States has undertaken substantial nuclear force reductions. We haven't modernized our nuclear weapons, and we haven't conducted an underground nuclear test for 17 years. One would think this history would put to rest the naive assumption that the U.S. movement toward disarmament will be reciprocated by other nations, including those that threaten our national security.

I would also like to submit for the RECORD a Wall Street Journal op-ed written by Steve Rademaker, former Assistant Secretary of State for International Security and Nonproliferation in the last administration. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks that letter.

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

(See exhibit 3.)

Mr. KYL. Mr. Rademaker correctly observes:

The critics are not impressed that by 2012 the U.S. will have reduced its deployed strategic warheads by 80 percent. They will not be satisfied if the U.S. reduces by 99 percent. So long as there is one nuclear weapon remaining in the U.S. inventory, he says, they will point to this as the root cause of nuclear proliferation.

As I indicated a few moments ago, there are real concerns facing the Senate at this time as we consider the START follow-on treaty. It is imperative that the President understand the true situation as he negotiates with his Russian counterparts.

This is all the more important as we begin to understand the highly significant reductions the administration apparently wants to negotiate in a follow-on agreement. According to the Joint Understanding from which I quoted before, the President plans to reach an agreement that represents a significant departure from current force levels.

I note that the 1,700 to 2,200 deployed strategic nuclear force level—actually on the high end of that range—was considered the minimum force level required for deterrence and assurance just last year when the Departments of Energy and Defense issued an unclassified white paper, ''National Security and Nuclear Weapons in the 21st Century.''

Given yesterday's announcement, I am curious to understand how estimates of necessary force levels could have changed so dramatically in the 10 months since that paper was issued. I am also very concerned about the implications for our triad and for our conventional arms modernization, if we lock in a launcher limit at anything close to 500.

The triad is the combination of our strategic bomber force, our intercontinental ballistic missiles based on land in silos, and ICBMs in submarines. Those are the three parts of our strategic triad. If we were to reduce the numbers as dramatically low as this paper would indicate, it is very clear the triad would be jeopardized; that is to say, not all elements of it would have the weaponry to be part of our strategic deterrent.

Moreover, these numbers would suggest that parts of this triad can be used for conventional purposes. Bombers can drop high explosive bombs. They don't just drop nuclear weapons. A missile—we have a lot of cruise missiles that send high-explosive warheads to their destination. It doesn't have to be a nuclear warhead. If we reduce the number of delivery systems down below a certain level, we not only impact our strategic nuclear deterrent but also our conventional deterrent and conventional capability.

This may be very advantageous for Russia. In fact, Russia is headed to a low level anyway because of their economy. But I believe it is a grave risk for the United States and our allies. I think these are issues that will warrant the highest level of scrutiny by the Senate. We can't be rushed in our work. These are very important existential questions.

I note that the Senate had over 425 days between the signature on the START I agreement and the eventual ratification of that treaty. There were 1,119 days between the signing and ratification of START II. And the Chemical Weapons Convention allowed the Senate 1,563 days of review, deliberation, and debate. The last successful arms control treaty with the Russians, the Strategic Offensive Reductions Treaty, or SORT, permitted the Senate 287 days to review.

I say again, there is no need for a rush. As the Wall Street Journal reported yesterday, July 8:

The White House Coordinator for Weapons of Mass Destruction, Security and Arms Control, Gary Samore, said on Sunday that the Administration may have to enact certain provisions of a treaty by executive order and on a 'provisional basis' to meet the December deadline.

Clearly, there are options available to ensure that the Senate has all the time it needs to thoughtfully consider a treaty and to make sure a nuclear weapons modernization program is in place and funded before the Senate proceeds to ratification of the START follow-on.

Mr. President, according to press reports, Russian President Medvedev has indicated that his nation would like to reduce the number of strategic launchers several times below the number currently permitted under START. This is reflected in the launcher limits outlined in the Joint Understanding.

This sounds good, but it is unclear that Russia is actually giving anything up.

In recent testimony before the House Committee on Foreign Affairs, Dr. Keith Payne, a former official of the Defense Department and a member of the bipartisan Congressional Commission on the Strategic Posture, cautioned ''We should be very careful about moving toward lower launcher numbers because it would provide significant advantages for the Russian Federation, but significant disadvantages for U.S. strategy.''

As Dr. Payne noted in his testimony, Russia's strategic ICBMs, SLBMs and bombers will drop dramatically with or without a new arms control agreement.

Specifically, Dr. Payne stated: ''within 8 or 9 years, the number of Russian strategic launchers will have dropped from approximately 680 launchers (some of which already are not operational) to approximately 270 launchers simply as a result of aging of their systems and the pace of their modernization program. In contrast, the service life of existing U.S. systems extends several decades.''

Dr. Payne continues: ''Despite spending up to 25% of the Russian military budget on the strategic forces, Russia's strategic nuclear forces will decline steeply with or without arms control.''

Consequently, Russia isn't giving up anything by agreeing to these reductions. At the same time, reductions in delivery vehicles could have consequences for the U.S., in terms of prompt global strike capabilities nd conventional strike modernization.

Dr. Payne also wrote about these facts in a recent Wall Street Journal piece, and I ask unanimous consent to print it in the RECORD as well.

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

(See exhibit 4.)

Mr. KYL. Additionally, in order to get a follow-on START agreement with Russia—one that appears to be much more to Russia's advantage than ours—we have also decided we will not seek to get the Russians to give up a very real advantage they possess: their tactical nuclear weapons, also known as nonstrategic nuclear weapons.

While the United States and Russia have a rough equivalence in their strategic nuclear weapons, there is a significant imbalance in tactical nuclear weapons that favors Russia.

This imbalance is exacerbated by the fact that Russia maintains an active nuclear weapons production complex, while the United States does not.

According to the recently concluded report of the bipartisan Perry-Schlesinger Commission, there is a growing asymmetry between United States and Russian nuclear weapons capabilities thanks to a longstanding problem whereby the Russian Federation has maintained far greater numbers of tactical nuclear weapons than the United States.

According to the commission, the Russians have approximately 3,800 of these weapons, while the United States has only a few hundred.

And according to a recent CRS report, the Russians may have as many as 8,000.

Despite this asymmetry, we are told that the forthcoming START follow-on will not deal with Russian tactical nuclear weapons, at Russian demand.

Yet, it is clear that our allies who rely on our extended deterrent are increasingly concerned.

For example, the Perry-Schlesinger report stated: ''The combination of new warhead designs, the estimated production capability for new nuclear warheads, and precision delivery systems such as the Iskander short-range tactical ballistic missile (known as the SS–26 in the West), open up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.''

And according to that report, ''The United States should not cede to Russia a posture of superiority in the name of deemphasizing nuclear weapons in U.S. military strategy. There seems no near-term prospect of such a result in the balance of operationally deployed strategic nuclear weapons. But that balance does not exist in nonstrategic nuclear forces, where Russia enjoys a sizeable numerical advantage. As noted above, it stores thousands of these weapons in apparent support of possible military operations west of the Urals. The United States deploys a small fraction of that number in support of nuclear sharing agreements in NATO. Precise numbers for the U.S. deployments are classified but their total is only about five percent of the total at the height of the Cold War. Strict U.S.-Russian equivalence in NSNF numbers is unnecessary. But the current imbalance is stark and worrisome to some U.S. allies in Central Europe. If and as reductions continue in the number of operationally deployed strategic nuclear weapons, this imbalance will become more apparent and allies less assured.''

It is therefore inexplicable to me that we will not be negotiating with the Russians about reductions in those nuclear forces.

Moreover, I am concerned by suggestions that discussions of these forces will have to wait for the ''next treaty'' which may not ever arrive. In the meantime, this follow-on agreement may lock in a significant disadvantage for the United States and our allies.

In recent months, it has become clear that the state of our nuclear deterrent is in need of serious attention.

As high an authority as Secretary of Defense Robert Gates warned: ''At a certain point, it will become impossible to keep extending the life of our arsenal, especially in light of our testing moratorium. It also makes it harder to reduce existing stockpiles, because eventually we won't have as much confidence in the efficacy of the weapons we do have.''

Secretary Gates continued this argument when he said: ''To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.''

This is a statement of significant import. Secretary Gates has warned that without a modernization program, such as the Reliable Replacement Warhead RRW, which Congress rejected during the last administration, we will be unable to reduce the number of weapons we maintain.

In fact, we are not even certain we can modernize without testing, but we would be a lot closer to knowing the answer to that question if Congress had approved the RRW studies.

As the Perry-Schlesinger Commission noted, our nuclear weapons and their delivery platforms are long overdue for a needed modernization program and will continue to experience safety, reliability and credibility problems until that modernization is in place.

In fact, even in its Interim Report, the commission stated: ''High confidence in stockpile reliability not only is important for maintaining deterrence, it is also vital for making substantial reductions in the size of our stockpile.''

Thus, it should not be surprising that the commission made the following findings and recommendations that are of such importance that I want to read them into the Record in their entirety:

i. For the indefinite future, the United States must maintain a viable nuclear deterrent. The other NPT- recognized nuclear-weapon states have put in place comprehensive programs to modernize their forces to meet new international circumstances.

ii. The Stockpile Stewardship Program has had some remarkable achievements. But in recent years, the level of funding provided to support these safeguards has been inadequate.

iii. The Life Extension Program has to date been effective in dealing with the problem of modernizing the arsenal. But it is becoming increasingly difficult to continue within the constraints of a rigid adherence to original materials and design as the stockpile continues to age.

iv. As the reductions have proceeded over the period since the end of the Cold War, the potential to deal with technical surprise has been reduced, as the diversity of types of weapons in the stockpile has shrunk.

v. The infrastructure that supports two thirds of the strategic deterrent triad—the SLBMs and ICBMs is not being sustained.

Mr. President, it is clear that not only is a modernization program for our nuclear weapons, the complex that supports it, and the delivery systems associated with it long overdue, it is also inextricably linked to safely reducing our nuclear arsenal further and must be considered by the Senate simultaneously to, if not before, the START follow-on is submitted.

Such a modernization program should take into account issues raised by the Nuclear Weapons Council in its December 24, 2008, letter to the NNSA administrator.

I ask unanimous consent to print the letter in the RECORD at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. KYL. It should also take into account the commission's recommendations, which noted that as long as modernization takes place within current policies regarding testing and military characteristics, there should be no political controversy.

The administration should request a modernization program that in its first year includes: increases to stockpile surveillance; LEP studies for W76 and B61 that add safety, reliability and credibility; increases to directed stockpile work; certification and safety at the Nevada Test Site; accelerated funding of the Los Alamos CMRR facility and the Y–12 UPF; and, increases to advanced computing platform and code work.

Mr. President, lastly, I wish to discuss an important but so far overlooked component of the pending arms control discussions, namely Russia's history of violating its obligations.

The unclassified version of the 2005 State Department Report on Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments makes clear, and not for the first time, that Russia has not lived up to all of its agreements under the 1991 START agreement.

Dr. Payne noted this in his recent testimony, and I quote, ''in my opinion, the most important of these violations has been discussed openly in Russian publications. It is the Russian testing of the SS–27 ICBM with MIRVs in direct violation of START. The SS–27 is listed as a single-warhead ICBM and can only be tested and deployed with a single warhead under START. Russian Sources place the number of MIRVs on this forthcoming missile at 4 or more.''

These are not the only such issues regarding the Russians compliance with START. I ask unanimous consent that the START section of the unclassified Compliance Report be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 6.)

Mr. KYL. Additionally, the Commission on the Strategic Posture noted that the Russians are in violation of their commitments concerning tactical nuclear weapons under the 1990–91 Presidential Nuclear Initiatives.

I remind my colleagues these are the same tactical nuclear weapons that Russia refuses to discuss in the follow-on treaty, a demand the administration seems to have accepted.

Clearly, if the United States is going to negotiate a successor to the 1991 START agreement with the Russians, we must have a way to reconcile past compliance failures and ensure that future violations, if any, are resolved in a timely manner.

As I have articulated, there are significant issues that the Senate will have to follow closely and scrutinize as a part of the process of advice and consent.

This is a two-way process of consultation between the administration and the Senate.

I remind my colleagues and the administration, it is more important that this be done right than quickly.

Arrangements can be made to ensure that the provisions of START that enjoy almost universal support in this body do not expire, as administration officials have freely admitted.

I urge the administration to continue consulting regularly with the Senate, including the National Security Working Group that I cochair with my colleague from West Virginia, Senator BYRD.

I yield the floor.

EXHIBIT 1

U.S.-RUSSIAN START RENEWAL NEGOTIATIONS—GUIDELINES TO PROTECT U.S. INTERESTS

Recognize that the U.S. nuclear deterrent force is a key element in the defense of the United States and of our allies and friends.

U.S. nuclear umbrella is crucial non-proliferation tool. The U.S. nuclear umbrella is perhaps the most important nonproliferation tool we possess, as many of our allies and friends rely on our deterrent force. Absent a U.S. nuclear deterrent seen to be credible, effective and safe, those nations would have to consider developing their own nuclear weapons.

Analyze first, then negotiate. The U.S. Defense Department should complete a proper Nuclear Posture Review, as mandated by Congress, before the U.S. concludes a new treaty with Russia on further nuclear weapons reductions.

Limit Russian advantage in ''tactical'' nuclear weapons—A new U.S.-Russian agreement should aim to reduce the current Russian superiority over the U.S. in numbers of ''tactical'' nuclear weapons. Russia has approximately ten times the number of such weapons in the U.S. arsenal.

Address before U.S. leverage shrinks—The U.S. will have less leverage to address this issue once a START renewal agreement has been concluded.

Recognize the significance of Russia's large advantage in ''tactical'' nuclear weapons. The distinction between strategic and tactical nuclear weapons is an artifact of the Cold War that facilitated arms control agreements on very high levels of nuclear forces.

Today, the size of nuclear arsenals is much smaller and the importance of large numbers of smaller-yield weapons is much greater.

To U.S. allies and friends, all nuclear weapons are strategic.

An agreement that preserves the large imbalance in total numbers of deployed nuclear weapons in Russia's favor will, over time, affect the views of U.S. allies and friends on the reliability of the U.S. nuclear umbrella.

U.S. policy for decades—in administrations of both parties—has been to maintain a nuclear capability second to none. That policy would be undermined by an agreement that further reduces strategic weapons while leaving so-called non-strategic weapons unlimited.

Recognize existence of risks in strategic reductions below current levels—There is no compelling reason for the U.S. and Russia to reduce deployed strategic nuclear warheads below the current range of 1700–2200, as set in the Strategic Offensive Reductions Treaty (SORT). This level of offensive strategic nuclear arms, the lowest in decades, was based on analysis that took into account the dangers and uncertainties of the security environment. Quickly reducing to an arbitrary number like 1500, does not take into account these risks.

Don't pay for what's free—According to credible Russian sources, Russia's strategic nuclear weapons will be reduced by approximately 60% over the next decade in any event—with or without a START renewal treaty—due to the aging or planned modernization of systems. The United States should not make concessions for the purpose of inducing Russia to make reductions that will occur anyway.

Certain reductions may be harmful—Whether a reduction below the 1700–2200 range is prudent depends on a number of considerations, especially preserving deterrence and taking account of all potential adversaries.

Preserve deterrence and extended deterrence—Any reductions should allow the U.S. to preserve not only deterrence of threats directly against the U.S. but also extended deterrence—for allies and partners who depend on the U.S. to deter potential nuclear aggressors.

Effect on triad—In particular, any reductions should allow the U.S. to maintain a robust nuclear triad of land-based, sea-based and bomber-delivered weapons.

Importance of triad—It is important to maintain the triad, lest the survivability and flexibility of the U.S. strategic posture be undermined.

Consider all potential adversaries—In assessing the sufficiency of the U.S. deterrent, the potential nuclear capabilities of all possible adversaries of the U.S. and of allies and partners who depend on that deterrent should be considered, not just the capabilities of Russia.

Don't incentivize proliferation—The U.S. nuclear posture should not be constrained to the point that other current or potential nuclear powers come to believe they can create a nuclear arsenal that would give them significant strategic leverage against the U.S.

In any case, exercise caution in limiting delivery systems—In the interest of stability and flexibility, the U.S. should not agree to reduce the number of delivery systems in a way that would increase the vulnerability of our deterrent (including our extended deterrent that protects U.S. allies and partners).

Don't incentivize MIRVs—For the same reasons, a new agreement should not restrain or penalize ''de-MIRVing''—that is, converting multiple-warhead missiles into single-warhead missiles.

Severe limits on the number of delivery systems create pressure for the parties to arm missiles with multiple warheads.

Preserve U.S. ability to modernize for safety and reliability—Any agreement should preserve the right of the U.S. to develop new warheads to be able to react to unforeseen circumstances.

A crucial requirement: A comprehensive modernization plan—The Senate should not consent to any treaty until the Administration has proposed to Congress a satisfactory, comprehensive modernization plan that fulfills the modernization recommendations of the bipartisan Congressional Commission on the Strategic Posture of the United States, especially the maintenance of a safe, reliable and credible U.S. nuclear deterrent, including an extended deterrent for the protection of U.S. allies and partners.

Don't constrain missile defense—A new U.S.-Russian arms control agreement should not constrain the U.S. ability to develop and deploy missile defenses.

Don't constrain advanced conventional weapons—A new U.S.-Russian agreement should not constrain or penalize (1) U.S. development of advanced conventional—that is, non-nuclear weapons, including those capable of strategic strike, or (2) U.S. deployment of such weapons to replace nuclear weapons.

Take account of unpredictability of technology developments—We cannot now predict what conventional weapons developments may be possible.

Consider effects on programs of the future—Thus, the effect of a given treaty limitation cannot be measured only by how it would impact programs already on the books.

Address Russian compliance problems—Devise a mechanism that ensures treaty violations are investigated and parties to an agreement adhere to their obligations.

From the outset, the Russians have failed to comply fully with their obligations.

For example, according to an August 2005 U.S. State Department report, Russia has prevented U.S. inspectors from verifying warhead limits on certain ICBMs.

Update START verification—A key U.S. objective in an agreement with Russia should be to update START verification provisions to take account of new circumstances and fix problems.

Verification regime extendable—Obama administration officials have a sense of urgency because the START Treaty expires in December 2009 and they want to ensure that the treaty's verification regime does not lapse. But the US and Russia can agree to extend the verification regime without having to rush to reach agreement on further weapons reductions.

Endorsed by:

John Bolton, Ambassador to United Nations, Under Secretary of State for Arms Control and International Security (G.W. Bush);

Seth Cropsey, Deputy Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict (G.H.W. Bush);

Jack David, Deputy Assistant Secretary of Defense for Combating Weapons of Mass Destruction and Negotiations Policy (G.W. Bush);

Paula DeSutter, Assistant Secretary of State for Verification, Compliance and Implementation (G.W. Bush);

Michael M. Dunn, Lieutenant General, U.S.A.F. (ret.); President, National Defense University;

Eric Edelman, Under Secretary of Defense for Policy (G.W. Bush)

Douglas J. Feith, Under Secretary of Defense for Policy (G.W. Bush);

Fred C. Iklé, Under Secretary of Defense for Policy (Reagan); Director, Arms Control and Disarmament Agency (Ford);

Robert Joseph, Under Secretary of State for Arms Control and International Security (G.W. Bush);

Stephen Rademaker, Assistant Secretary of State for International Security and Nonproliferation (G.W. Bush);

Abram N. Shulsky, Director, Strategic Arms Control Policy, Office of Secretary of Defense; Secretary of Defense Representative to Defense and Space Talks (Reagan);

James Woolsey, Director, Central Intelligence Agency (Clinton).

EXHIBIT 2

JOINT UNDERSTANDING

The President of the United States of America and the President of the Russian Federation have decided on further reductions and limitations of their nations' strategic offensive arms and on concluding at an early date a new legally binding agreement to replace the current START Treaty, and directed that the new treaty contain, inter alia, the following elements:

1. A provision to the effect that each Party will reduce and limit its strategic offensive arms so that seven years after entry into force of the treaty and thereafter, the limits will be in the range of 500–1100 for strategic delivery vehicles, and in the range of 1500–1675 for their associated warheads.

The specific numbers to be recorded in the treaty for these limits will be agreed through further negotiations.

2. Provisions for calculating these limits.

3. Provisions on definitions, data exchanges, notifications, eliminations, inspections and verification procedures, as well as confidence building and transparency measures, as adapted, simplified, and made less costly, as appropriate, in comparison to the START Treaty.

4. A provision to the effect that each Party will determine for itself the composition and structure of its strategic offensive arms.

5. A provision on the interrelationship of strategic offensive and strategic defensive arms.

6. A provision on the impact of intercontinental ballistic missiles and submarine-launched ballistic missiles in a non-nuclear configuration on strategic stability.

7. A provision on basing strategic offensive arms exclusively on the national territory of each Party.

8. Establishment of an implementation body to resolve questions related to treaty implementation.

9. A provision to the effect that the treaty will not apply to existing patterns of cooperation in the area of strategic offensive arms between a Party and a third state.

10. A duration of the treaty of ten years, unless it is superseded before that time by a subsequent treaty on the reduction of strategic offensive arms.

The Presidents direct their negotiators to finish their work on the treaty at an early date so that they may sign and submit it for ratification in their respective countries.

Signed at Moscow, this sixth day of July, 2009, in duplicate, in the English and Russian languages.

FOR THE UNITED STATES OF AMERICA:

FOR THE RUSSIAN FEDERATION:

EXHIBIT 3

[From the Wall Street Journal, May 7, 2007]

BLAME AMERICA FIRST

(By Stephen Rademaker)

Two groups with diametrically opposed agendas have for years argued that the likes of Iran and North Korea will not be deterred in their quest for nuclear weapons so long as the U.S. and the other nuclear powers are ignoring their obligation under the Nuclear Nonproliferation Treaty (NPT) to give up their nuclear arsenals. Apologists for the proliferators, who care not at all about nuclear disarmament, and arms control activists, to whom there is no higher priority than nuclear disarmament, have long agreed about this and little else.

Jimmy Carter spoke for the latter group when he wrote, in an op-ed in the Washington Post a while back, ''The United States is the major culprit in this erosion of the NPT.'' The key to ending nuclear proliferation, according to Mr. Carter and the many others who share this point of view, is for the U.S. to demonstrate leadership by moving decisively to eliminate its nuclear weapons. This perspective is likely to be heard more frequently as international efforts to constrain the nuclear ambitions of Iran and North Korea appear to falter.

There are, however, two basic flaws in the suggestion that nuclear proliferation is rooted in U.S. nuclear policy. First, the reasons why Iran, North Korea and other would-be proliferators seek nuclear weapons have nothing to do with Washington's nuclear policy. Second, the claim that the U.S. is disregarding its legal obligations under the NPT does not withstand scrutiny.

To recognize that the motivations of today's nuclear proliferators have nothing to do with U.S. nuclear policy, it is necessary only to consider one question: Would Iran's Mahmoud Ahmadinejad or North Korea's Kim Jong Il be any less interested in having nuclear weapons if the U.S. gave up its nuclear weapons? In both cases, the answer is clearly no.

President Ahmadinejad, by his own statements, is bent on dominating the Middle East and destroying the state of Israel. Nuclear weapons afford a shortcut to the realization of these objectives and therefore the Iranian regime wants them. Whether or not the U.S. has nuclear weapons is irrelevant to this calculus. Mr. Ahmadinejad may occasionally find it a convenient talking point to draw comparisons with the nuclear programs of other countries, but there is little doubt his policy would be the same even in the absence of that talking point.

In the case of North Korea, the pursuit of nuclear weapons appears to stem from Kim Jong Il's hunger for prestige and power. All indications are that Kim would be even more interested in having nuclear weapons if he thought he could be the only leader on Earth to possess them.

Those who argue that the U.S. has disregarded its nuclear disarmament obligations under the NPT are quick to make categorical assertions about the treaty's requirements, but almost never quote the pertinent language of the NPT, for the simple reason that it provides no support for their claims. The key provision, Article VI of the treaty, consists of only one sentence: ''Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a Treaty on general and complete disarmament under strict and effective international control.''

It is impossible to discern from this language a binding legal obligation on the U.S. and the other four nuclear-weapon states to give up nuclear weapons. The operative legal requirement is to ''pursue negotiations in good faith on effective measures relating . . . to nuclear disarmament. . . .''

The U.S. has not only negotiated on such matters for more than three decades, but it has signed and implemented a series of arms control agreements beginning in 1972 that have ended the nuclear arms race and substantially reduced the U.S. nuclear inventory. When the latest arms control agreement with Russia expires in 2012, the U.S.

will have reduced by about 80% the number of strategic nuclear warheads deployed at the height of the Cold War.

Significantly, the obligations of Article VI apply not just to the five countries allowed by the treaty to have nuclear weapons, but to all parties to the NPT. Article VI clearly links the obligation to negotiate on nuclear disarmament with an obligation on the part of all NPT parties to negotiate ''a Treaty on general and complete disarmament.''

The treaty also does not assume that nuclear disarmament must be a prerequisite to general and complete disarmament. To the contrary, one of the treaty's introductory paragraphs spells out the expectation of the parties that actual ''elimination from national arsenals of nuclear weapons'' would take place not prior to, but ''pursuant to a Treaty on general and complete disarmament.''

Those who in essence agree with the views of a Noam Chomsky that ''The United States has led the way in refusal to abide by the Article VI obligations,'' notwithstanding more than 30 years of nuclear arms control, need to explain why they are not similarly exercised by the failure of all other NPT states to satisfy their Article VI obligations. In particular, they need to explain why the U.S. must do more to comply with Article VI's nuclear disarmament provisions, in the absence of even token steps by anyone else to comply with that Article's general and complete disarmament requirements.

Because the language of Article VI does not actually say what proponents of nuclear disarmament want it to say, they have worked for decades to reinterpret it. They have, for example, promoted declarations by international conferences reformulating the requirements of Article VI, and then argued that these reformulations are legally binding on the U.S., without approval by the U.S. Senate. These efforts have succeeded to a remarkable degree, at least as measured by popular conceptions of the NPT's nuclear-disarmament requirements.

And so the critics are not impressed that by 2012 the U.S. will have reduced its deployed strategic nuclear warheads by 80%. They will not be satisfied if the U.S. reduces by 99%. So long as there is one nuclear weapon remaining in the U.S. inventory, they will point to this as a root cause of nuclear proliferation.

Few serious students of nuclear strategy believe that the stockpiles of the nuclear weapon states can be reduced to zero in the foreseeable future. Fortunately our reliance on nuclear weapons has been declining, and the U.S. should continue to eliminate unnecessary nuclear weapons based on considered judgments about our national security requirements. But we should not base such decisions about our nuclear force structure on wishful thinking that we can earn the goodwill of nuclear proliferators and other critics whose agendas are advanced by blaming America for nuclear proliferation.

EXHIBIT 4

[From the Wall Street Journal, July 8, 2009]

ARMS CONTROL AMNESIA

(By Keith B. Payne)

Three hours after arriving at the Kremlin yesterday, President Barack Obama signed a preliminary agreement on a new nuclear arms-control treaty with Russian President Dmitry Medvedev. The agreement—a clear road map for a new strategic Arms Reduction Treaty (START)—commits the U.S. and Russia to cut their nuclear weapons to the lowest levels since the early years of the Cold War.

Mr. Obama praised the agreement as a step forward, away from the ''suspicion and rivalry of the past,'' while Mr. Medvedev hailed it as a ''reasonable compromise.'' In fact, given the range of force levels it permits, this agreement has the potential to compromise U.S. security—depending on what happens next.

In the first place, locking in specific reductions for U.S. forces prior to the conclusion of the ongoing Nuclear Posture Review is putting the cart before the horse. The Obama administration's team at the Pentagon is currently examining U.S. strategic force requirements. Before specific limits are set on U.S. forces, it should complete the review. Strategic requirements should drive force numbers; arms-control numbers should not dictate strategy.

Second, the new agreement not only calls for reductions in the number of nuclear warheads (to between 1,500 and 1,675), but for cuts in the number of strategic force launchers. Under the 1991 START I Treaty, each side was limited to 1,600 launchers. Yesterday's agreement calls for each side to be limited to between 500 and 1,100 launchers each.

According to open Russian sources, it was Russia that pushed for the lower limit of 500 launchers in negotiations. In the weeks leading up to this summit, it also has been openly stated that Moscow would like the number of deployed intercontinental ballistic missiles (ICBMs), submarine-launched missiles (SLBMS), and strategic bombers to be reduced ''several times'' below the current limit of 1,600. Moving toward very low numbers of launchers is a smart position for Russia, but not for the U.S.

Why? Because the number of deployed Russian strategic ICBMs, SLBMs, and bombers will drop dramatically simply as a result of their aging. In other words, a large number of Russian launchers will be removed from service with or without a new arms-control agreement.

The Obama administration will undoubtedly come under heavy pressure to move to the low end of the 500–1,100 limit on launchers in order to match Russian reductions. But it need not and should not do so. Based solely on open Russian sources, by 2017–2018 Russia will likely have fewer than half of the approximately 680 operational launchers it has today. With a gross domestic product less than that of California, Russia is confronting the dilemma of how to maintain parity with the U.S. while retiring its many aged strategic forces.

Mr. Medvedev's solution is to negotiate, inviting the U.S. to make real cuts, while Russia eliminates nothing that it wouldn't retire in any event.

This isn't just my conclusion—it's the conclusion of many Russian officials and commentators. Russian Gen. Nikolay Solovtsov, commander of the Strategic Missile Troops, was recently quoted by Moscow Interfax-AVN Online as saying that ''not a single Russian launcher'' with ''remaining service life'' will be withdrawn under a new agreement. Noted Russian journalist Pavel Felgengauer observed in Novaya Gazeta that Russian leaders ''have demanded of the Americans unilateral concessions on all points, offering practically nothing in exchange.'' Precisely.

Beyond the bad negotiating principle of giving up something for nothing, there will be serious downsides if the U.S. actually reduces its strategic launchers as much as Moscow wishes. The bipartisan Congressional Strategic Posture Commission—headed by former secretaries of defense William J. Perry and James R. Schlesinger—concluded that the U.S. could make reductions ''if this were done while also preserving the resilience and survivability of U.S. forces.'' Having very low numbers of launchers would make the U.S. more vulnerable to destabilizing first-strike dangers, and would reduce or eliminate the U.S. ability to adapt its nuclear deterrent to an increasingly diverse set of post-Cold War nuclear and biological weapons threats.

Accepting low launcher numbers would also encourage placing more warheads on the remaining ICBMs—i.e., ''MIRVing,'' or adding multiple independently targeted warheads on a single missile. This is what the Russians openly say they are planning to do. Yet the U.S. has long sought to move away from MIRVed ICBMs as part of START, because heavy MIRVing can make each ICBM a more tempting target. One measure of U.S. success will be in resisting the Russian claim that severely reducing launcher numbers is somehow necessary and ''stabilizing.'' It would be neither.

Third, the new agreement appears to defer the matter of so-called tactical nuclear weapons. Russia has some 4,000 tactical nuclear weapons and many thousands more in reserve; U.S. officials have said that Russia has an astounding 10 to 1 numerical advantage. These weapons are of greatest concern with regard to the potential for nuclear war, and they should be our focus for arms reduction. The Perry-Schlesinger commission report identified Russian tactical nuclear weapons as an ''urgent'' problem. Yet at this point, they appear to be off the table.

The administration may hope to negotiate reductions in tactical nuclear weapons later. But Russia has rejected this in the past, and nothing seems to have changed. As Gen. Vladimir Dvorkin of the Russian Academy of Sciences said recently in Moscow Interfax-AVN Online, ''A treaty on the limitation and reduction of tactical nuclear weapons looks absolutely unrealistic.'' If the U.S. hopes to address this real problem, it must maintain negotiating leverage in the form of strategic launchers and weapons.

Fourth, Mr. Medvedev was quoted recently in RIA Novosti as saying that strategic reductions are possible only if the U.S. alleviates Russian concerns about ''U.S. plans to create a global missile defense.'' There will surely be domestic and international pressure on the U.S. to limit missile defense to facilitate Russian reductions under the new treaty. But the U.S. need for missile defense has little to do with Russia. And the value of missile defense could not be clearer given recent North Korean belligerence. The Russians are demanding this linkage, at least in part to kill our missile defense site in Europe intended to defend against Iranian missiles. Another measure of U.S. success will be to avoid such linkages.

In short, Russian leaders hope to control or eliminate many elements of U.S. military power in exchange for strategic force reductions they will have to make anyway. U.S. leaders should not agree to pay Russia many times over for essentially an empty box.

Finally, Russian violations of its existing arms-control commitments must be addressed along with any new commitments. According to an August 2005 State Department report, Russia has violated START verification and other arms-control commitments in multiple ways. One significant violation has even been discussed openly in Russian publications—the testing of the SS–27 ICBM with MIRVs in direct violation of START I.

President Obama should recall Winston Churchill's warning: ''Be careful above all things not to let go of the atomic weapon until you are sure and more than sure that other means of preserving peace are in your hands.'' There is no need for the U.S. to accept Russian demands for missile-defense linkage, or deep reductions in the number of our ICBMs, SLBMs and bombers, to realize much lower numbers of Russian strategic

systems. There is also no basis for expecting Russian goodwill if we do so.

EXHIBIT 5

DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NUCLEAR WEAPONS COUNCIL,
Washington, DC, December 24, 2008.

Hon. THOMAS P. D'AGOSTINO,
Administrator, National Nuclear Security Administration, Department of Energy, Washington, DC.

DEAR MR. D'AGOSTINO: The Department of Defense (DoD) and the National Nuclear Security Administration (NNSA), have joint responsibility to maintain a safe, secure, and reliable nuclear weapons stockpile and supporting infrastructure to provide the United States a credible nuclear deterrent. I understand that NNSA is implementing Records of Decision (RODs), in connection with the recently completed Supplemental Programmatic Environmental Impact Statement (SPEIS), regarding the future U.S. nuclear weapons complex. Our staffs have been working together to address the detailed issues associated with the SPEIS decisions, including specific requirements the nuclear weapons complex must achieve to enable stockpile and infrastructure transformation.

The U.S. nuclear deterrent continues to serve as the ultimate guarantor of U.S. security and our security commitments to allies. The required size and composition of the nuclear weapons stockpile is dependent on the global security environment and the ability to respond to unanticipated technical problems. We cannot know with certainty the future global security environment, nor can we predict the nature or extent of potential problems with warheads or delivery systems. These factors argue for a flexible nuclear weapons infrastructure capable of responding to future geopolitical or technical challenges.

To minimize stockpile size and reduce the likelihood that a return to underground nuclear testing will be needed in the future, DoD will require a warhead with modern safety, security, and use control features. In addition, DoD will continue to rely on life extension of legacy warheads and therefore requires an infrastructure capable of developing and producing these warheads. Of critical importance, and independent of future stockpile planning, our nuclear infrastructure must ensure that our future stockpile is:

Safe and Secure: To the degree feasible, refurbished or replacement warheads will incorporate enhanced safety features such as: insensitive high explosives, multipoint safety, meet all other safety-related Military Characteristics, and be protected against theft and sabotage including the possibility of unauthorized or accidental detonation.

Reliable: U.S. nuclear forces must be able to hold at risk those critical capabilities of our potential enemies that are defined by presidential guidance. Increased performance margins should be pursued in weapon refurbishment or replacement programs, ensuring with high confidence that our nuclear weapons are reliable and credible while reducing the likelihood of a return to underground nuclear testing.

Adaptable: The NNSA should employ, to the maximum extent possible in refurbished or replacement weapons, modular designs that are interoperable between multiple delivery platforms.

In light of these standards and the need to achieve and modernize a responsive nuclear infrastructure, the DoD recommends the NNSA RODs regarding the future of the nuclear weapons complex take into account the following:

Independent of the size of the future nuclear weapons stockpile, provide a plutonium research, development, and manufacturing capability that will ensure (1) continued excellence in plutonium research, (2) an ability to conduct surveillance of plutonium pits, and (3) a capacity to deliver newly manufactured pits with actual production rates determined by NNSA that, when coupled with full exercise of analytical chemistry and other quality control processes, will demonstrate key capabilities and meet stockpile requirements. As stated in the March 2008 ''National Security and Nuclear Weapons in the 21st Century'' paper signed by Secretaries Gates and Bodman, planned pit production facilities should be capable of providing an estimated maximum capacity of 50–80 pits per year. Near-term planning for pit manufacturing capacity should be executed in a way that does not foreclose appropriate adjustments in capacity if necessary in the future.

Provide an infrastructure to produce, with sufficient capacity, uranium and other components of nuclear warhead canned subassemblies, and to support surveillance and dismantlement activities.

Maintain the ability to produce tritium in quantities sufficient to support the stockpile.

Maintain the ability to conduct surveillance of all components of nuclear warheads so that potential reliability issues can be quickly identified, allowing responsive correction.

Provide sufficient capacity for warhead assembly and disassembly that takes into account upcoming warhead life extension programs, the potential introduction of replacement warheads with enhanced surety features, and the capability to address future and emerging requirements, while at the same time addressing the growing number of warheads slated for dismantlement resulting from recent stockpile reductions directed by the President.

Complete and sustain the research and development, scientific, computational and experimental facilities and capabilities, including warhead design, engineering and production skills needed to support the future stockpile.

Ensure a 24–36 month preparedness to conduct, as may be required, an underground nuclear test to help resolve a safety or technical problem in the stockpile.

As you implement the RODs regarding the future complex, I trust that you will fully consider these requirements and request that you update the Nuclear Weapons Council on progress at an upcoming meeting.

(For John J. Young, Jr., Chairman).

EXHIBIT 6

BUREAU OF VERIFICATION AND COMPLIANCE,
Washington, DC, August 30, 2005.

ADHERENCE TO AND COMPLIANCE WITH ARMS CONTROL, NONPROLIFERATION, AND DISARMAMENT AGREEMENTS AND COMMITMENTS

B. THE STRATEGIC ARMS REDUCTION TREATY (START)

Belarus, Kazakhstan, Russia, and Ukraine are in compliance with the START strategic offensive arms (SOA) central limits. Both the United States and Russia met the START seven-year reduction final ceilings of 1,600 delivery vehicles and 6,000 attributed warheads by the December 4, 2001, deadline. By December 2001, these four Former Soviet Union (FSU) successor states had reduced their aggregate forces to 1,136 deployed launchers, 5,518 deployed warheads, and 4,894 deployed ballistic missile warheads, as defined by Article II of the Treaty, and all strategic weapons had been removed or eliminated from the territories of Ukraine, Belarus, and Kazakhstan. Additionally, START required the four FSU successor states to eliminate at least 154 heavy ICBM (SS–18)silo launchers by December 2001. In the original MOU, dated September 1, 1990, the Soviet Union declared 308 SS–18 heavy ICBM silo launchers. As of November 30, 2001, a total of 158 SS–18 silo launchers had been eliminated—104 in Kazakhstan and 54 in Russia—leaving a total of 150 deployed heavy ICBMs.

Notwithstanding the overall success of START implementation, a significant number of longstanding compliance issues that have been raised in the START Treaty's Joint Compliance and Inspection Commission (JCIC) remain unresolved. The Parties continue to work through diplomatic channels and in the JCIC to ensure smooth implementation of the Treaty and effective resolution of compliance issues and questions.

The United States raised six new compliance issues during the period of this report. The United States considers four of these to have been closed. However, several previous—often long-standing—compliance issues remain unresolved. A number of these issues, some of which originated as early as the first year of Treaty implementation, highlight the different interpretations of the Parties about how to implement the complex inspection and verification provisions of the START Treaty.

ICBM ISSUES

Inability to Confirm during Reentry Vehicle Inspections (RVOSIs) that the Number of Attributed ICBM Warheads Has Not Been Exceeded. During RVOSIs of deployed Russian ICBMs, U.S. inspectors have been hampered, in some cases, from ascertaining whether the missile had a front section, or that the front section contained no more reentry vehicles (RVs) than the number of warheads attributed to a missile of the declared type under the Treaty.

The purpose of an RVOSI, as set forth in paragraph 6 of Article XI of the Treaty, is to confirm that a ballistic missile contains no more RVs than the number of warheads attributed to a missile of that type.

The RVOSI procedures are referenced in paragraph 16 of Section IX of the Inspection Protocol and contained in Annex 3 to the Inspection Protocol. Paragraph 11 of Annex 3 allows the inspected Party to cover RVs. Inspectors have a right to view these covers and to measure hard covers prior to their placement on the RVs. The covers are then installed on the RVs before the inspectors view the front section. Under the Treaty, such covers must not hamper inspectors in ascertaining that the front section contains no more RVs than the number of warheads attributed to a missile of that type. Russian RV covers, in some instances, are too large; consequently, they fail to meet this requirement.

During certain RVOSIs, Russia did not demonstrate to the satisfaction of the U.S. inspection team that additional covered objects located on the front section, and declared by Russia not to be RVs, were not RVs. Although START does not differentiate between nuclear and non-nuclear RVs, Russia's willingness to use radiation detection equipment (RDE) during such RVOSIs to establish that the extra objects were not nuclear has been useful for resolving some, but not all, U.S. concerns.

FINDING. Russian RV covers, and their method of emplacement, have in some cases hampered U.S. inspectors from ascertaining that the front section of the missiles contains no more RVs than the number of warheads attributed to a missile of that type under the Treaty. Russian cooperation in the use of RDE and other measures has been helpful in addressing some, but not all, of the difficulties encountered by U.S. inspectors.

Russian Road-Mobile Launchers' ''Break-in.'' Russia has failed to declare certain road-mobile launchers of ICBMs when they first leave their production facility, as required by the Treaty. Russia has moved some of these launchers to an undeclared ''break-in'' area located over 60 miles from the production facility without declaring that they have left the production facility and are accountable under the Treaty.

Pursuant to paragraph 6(b) of Article III of the Treaty, a mobile launcher of ICBMs becomes subject to the Treaty limitations when it first leaves a production facility. Not later than five days following the first exit of such a newly produced non-deployed road-mobile launcher, and its entry into Treaty accountability, Section I of the Notification Protocol requires the Party producing the new Treaty-accountable item to provide a notification of this change in data. Except for transits, Parties are proscribed from locating non-deployed mobile launchers outside the boundaries of the START-declared facilities identified in subparagraph 9(b) of Article IV of the Treaty.

FINDING. Russia continues to violate START provisions relevant to these obligations.

Deployed SS–25 Road-Mobile Launchers Based Outside Their Designated Restricted Areas. Russia based some deployed SS–25 road-mobile launchers outside their declared restricted areas (RAs) at two road-mobile ICBM bases while these RAs were under construction. The United States and Russia concluded a temporary, interim policy arrangement regarding the conduct of inspections and cooperative measures at the facilities where the launchers were housed during the period of construction. This arrangement permitted U.S. inspectors to conduct data update inspections and RVOSIs that they had not previously been able to perform, and allowed Russia to cooperate fully with providing cooperative measures access for the launchers that were previously unavailable. All of these road-mobile ICBMs and their launchers have since been transferred from their bases, and their declared RAs have been eliminated as START facilities.

FINDING. Notwithstanding the interim policy arrangement, Russia's practice of locating deployed SS–25 road-mobile launchers outside their declared RAs for long periods of time constituted basing in a manner that violated the provisions of paragraphs 1 and 9 of Article VI of the Treaty. This practice has ceased and the United States considers this issue closed.

Denial of the Right to Measure Certain Deployed ICBM Launch Canisters on Mobile Launchers. U.S. inspectors have been prevented from exercising the Treaty right to measure certain ICBM launch canisters on mobile launchers, both deployed and non-deployed, that are encountered during data update inspections to confirm data regarding the type of item of inspection. Russia, for instance, has prevented U.S. inspectors from measuring launch canisters for SS–24 ICBMs contained in rail-mobile launchers that are located within the boundaries of an inspection site. Similar concerns have arisen with regard to launch canisters for SS–25 and SS–27 mobile ICBMs located on road-mobile launchers. With regard to launch canisters for these latter types, Russia and the United States have agreed upon a policy arrangement to address this issue, though it has not yet been implemented for the SS–27 ICBM.

Subparagraph 20(a) of Section VI of the Inspection Protocol identifies ICBM launch canisters as one of the items of inspection for data update inspections. In accordance with the procedures in Annex 1 to the Inspection Protocol, inspectors have the right to confirm the number and, if applicable, the types of items of inspection that are specified for the facility to be inspected and declared for the inspection site, and the right to confirm the absence of any other item of inspection at the inspection site. Pursuant to paragraph 6 of Annex 1, inspectors may view and measure the dimensions of a launch canister declared to contain an item of inspection to confirm it is of the declared type.

FINDING. Russia prevented U.S. inspectors from exercising their Treaty right to measure launch canisters for SS–24 ICBMs contained in rail-mobile launchers that are located within the boundaries of an inspection site, in contravention of paragraphs 1 and 6 of Annex 1 to the Inspection Protocol. With regard to launch canisters for SS–25 and SS–27 ICBMs located on road-mobile launchers, the Parties have agreed upon a policy arrangement to address this issue, but it has not yet been implemented for the SS–27 ICBM.

TELEMETRY ISSUES

As part of the START verification regime, the Parties are obligated to notify each other of missile flight tests and to exchange telemetry tapes, tape summaries, interpretive data, and acceleration profiles for each flight test of a START-accountable ICBM or SLBM. The United States has raised several concerns regarding Russia's failure to provide all Treaty-required telemetry materials for some START-accountable flight tests in violation of paragraphs 4 and 5 of Article X of the Treaty, and paragraph 1 of Section I and paragraphs 1 and 2 of Section II of the Telemetry Protocol.

FINDING. Russia has in some instances failed to comply with Treaty requirements regarding the provision of telemetry information on missile flight testing pursuant to Article X of the START Treaty and Sections I and II of the Telemetry Protocol.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Arizona for his courtesy. I enjoyed hearing his remarks. No Senator on either side of the aisle has been a more consistent spokesman on military preparedness than Senator KYL has been over the years. His concern about our nuclear stockpile is well known and very important. I hope all Americans will pay close attention to what he had to say.

I ask unanimous consent to speak for up to 20 minutes in morning business.

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

CHECKS AND BALANCES

Mr. ALEXANDER. Mr. President, our job in the Senate is to debate. We are said to be the greatest deliberative body in the world. The great conflicts in our country come here so that we can resolve them. After 6 months of President Obama's administration, Americans admire him, like him, like his family, and appreciate his seriousness of purpose. But Americans are beginning to see some significant differences of opinion between the kind of country the Democrats are imagining for our Nation and the kind of country Republicans and many independents are imagining. There is concern in Tennessee, as well as around the country, about the lack of checks and balances on too much debt and too many Washington takeovers.

In terms of debt, we see the President's proposals for debt for the next 10 years are nearly three times as much as all of the money the United States spent in World War II. As far as Washington takeovers, it seems to be a weekly running reality show. First the banks; then the insurance companies; then the student loans; then the car companies even, according to recent legislation; your farm pond, according to some Federal legislation; and now maybe even health care.

But people have a right to say to us on this side of the aisle: What would you Republicans do? You can't just point with alarm—although that is part of our job. What would Republicans do?

I wanted to mention three areas where Republicans have a different opinion than the current administration and where we hope we might persuade the American people and many Democrats and even the President to join us on a different path for the country. The first has to do with the Government's ownership of General Motors. We want to give the stock back to the people who paid for it, the taxpayers. The second has to do with health care. We want to begin at the other end of the discussion. We want to start with the 250 million Americans who already have health care and make sure they can afford it. After we are through making sure of that, that they can afford their government, because they can't afford these trillion-dollar additions to health care we keep hearing about.

Third, on clean energy, we want clean energy as well as the President does. But we also want energy that Americans can afford. We know cheap energy is key to our economic success. We want jobs to be made. We want cars to be made in Michigan and Ohio and Tennessee and not Mexico or Japan. We have a plan for clean energy that is low cost, that will reduce utility bills and keep jobs here which would compare with the Waxman-Markey climate change bill passed by the House and headed our way.

I would like to talk about each of those three very briefly. First, General Motors. I congratulate the new GM for emerging from bankruptcy today. General Motors has meant a great deal to our country and a great deal to our State, Tennessee. When General Motors decided nearly 25 years ago to put the Saturn plant in Tennessee, we had very few auto jobs. Nissan had already made a decision to come to our State. That was a pioneering decision because most auto plants were in the Midwest. Today there are a dozen such auto plants, including the General Motors plant in Spring Hill. In Tennessee, instead of having a few auto jobs, a third of our manufacturing jobs are auto jobs.

So we are grateful to General Motors for its decision 24 years ago, and we

want it to succeed. We want that Spring Hill plant to be making some GM products soon and believe that it will be because of all the natural advantages it has.

What are the best ways we in Washington can help General Motors succeed? That was the question asked of me last week in Tennessee. The answer is to get the General Motors stock that is owned by the government out of Washington, DC, and into the hands of the taxpayers. I have legislation I have introduced, and I am looking for the opportunity to amend an appropriate bill on the Senate floor that is cosponsored by the Republican leader and Senator KYL and a variety of others. It would take the 60 percent of General Motors the U.S. Government owns and give it to the 120 million Americans who pay taxes on April 15.

What is the reason for doing that? They paid for it. They should own it. What is the second reason for doing that? If the stock stays here, we find that Washington bureaucrats and those of us in Congress can't keep our hands off the car company.

We have the President calling up the mayor of Detroit saying: Yes, I think the headquarters ought to be in Detroit instead of Warren, MI. We have the Congressman from Massachusetts calling up the president of General Motors saying: Don't close the warehouse in my district. And you have the delegation from Tennessee and from Indiana and Michigan saying: Put a car plant here. And you have 60 committees in Congress authorized to summon the executives here—we own the company, after all; let's hear what they have to say—and tell them what to do. Paint it this color. Get your battery from this district. Make it this way.

What are the poor executives going to do? Drive in their congressionally approved hybrid cars from Detroit to Washington to testify before 60 subcommittees while Toyota is busy making cars?

GM will never succeed if we keep this incestuous political meddling alive.

There are a variety of ways to get the stock out of the government and back in the hands of the people. The President has said he would like to do it. He has also said he wants to keep his hands off it. But that has not been the practice so far.

Senator BENNETT of Utah and I have introduced this legislation that would give the stock to the taxpayers who paid for it. That is the best way to do it, in my opinion. That would happen within a year. It would be a fairly common occurrence in the American corporate world. It is what Procter & Gamble did with Clorox a few years ago. It is what PepsiCo did with its restaurant businesses a few years ago. The company decided it had a subsidiary that did not fit the role of the major company, and so it spun it off—a stock distribution, a corporate spinoff.

I think we can all agree—at least 90 percent of the American people agree, according to surveys—that the government in Washington has no business whatsoever trying to run a car company. What do we know about it? So the best way to get rid of it is to give it to the people who paid for it.

There are other ways to do it, and several Senators—Senator CORKER, for example, has suggested an ownership trust to try to make sure that while it is here, the government keeps its hands off the day-to-day operations. Senator JOHANNS and Senator THUNE also have bills of this kind, as does Senator NELSON of Nebraska.

But my point is, now that General Motors has emerged from bankruptcy, let's celebrate that by taking the 60 percent of the stock the American taxpayers paid $50 billion for and giving it to those same taxpayers and getting our hands off the company and cheer them on.

There is another reason this would be a good idea. Most of us know the Green Bay Packers are a popular team, especially in their home area. Why is that? Because the fans own the team. That would be the same thing we would have with the General Motors stock distribution. Just as Green Bay Packer fans have a special interest in who the quarterback might be because they own the team, if 120 million Americans had a little bit of GM stock, they might be a little more interested in the next Chevrolet, and that might create a nice fan investor base for the new GM as it seeks to move ahead.

So that is the first idea we Republicans have: get the government stock ownership of the car companies out of Washington and back in the hands of the marketplace where it belongs.

Here is the second idea we have. It has to do with health care. We would start at the other end of the debate. We would start with the 250 million Americans who already have health care and say to them: We want to make sure you can afford your health care, that you can choose your health care, and that when we are done fixing it in this health care reform—that we would like to do this year along with our Democratic friends—we want to make sure you can afford your government as well. That is our message.

Our friends on the other side—the Democrats—have more votes than we do, so they have set the agenda and they are writing the bill. In the Health, Education, Labor, and Pensions Committee, on which I serve, they are being very polite and collegial and nice to us, but they are taking almost none of our ideas and recommendations, and they are starting at the other end. And their other end is not going very well.

It is not going very well in terms of costs and debt because the Congressional Budget Office has begun to tell us how much some of these proposals will cost; and we are talking about $2 trillion in addition to all the trillions we have been spending this year.

This Nation cannot afford that. Even though we are adding $1 trillion or $2 trillion to the debt in order to have this sort of health care reform that is being proposed, it does not begin to cover the uninsured people in America.

We would like to cover the uninsured people, too, but we think we ought to do that after we make sure we keep the costs down for the 250 million who already have health insurance, including the small businesses of this country. That is our main goal: to lower costs. And we do not want to end up with a health care plan that adds debt to the government either.

That is why we have introduced a number of plans. Senator COBURN and Senator BURR have introduced one. Senator GREGG of New Hampshire has introduced one. Senator HATCH has introduced a health care plan that gives the States more responsibility in figuring out exactly how to provide health care, especially to low-income Americans.

The essential differences between our approaches and the Democratic approaches that are being presented is that, one, ours do not add to the debt; and, two, the government does not run ours.

The essential nature of the Democratic proposals is to expand one failed government program for low-income people that is called the Medicaid Program and to create another, which we believe will tend to drive out your choices and your competition and not do very much to reduce your costs, while adding heavily to the national debt we already have.

That is a major difference we have. And we have our proposals on the table. The discussion is not going very well because it is one-sided. I suggested, 3 weeks ago, when we began to discuss the Kennedy bill, we ought to start over and suggested they might want to take some of our ideas.

There is a Wyden-Bennett piece of legislation I did not even mention. Mr. President, 14 of us—8 Democrats and 6 Republicans—are cosponsors of that legislation. It has a zero addition to the national debt, according to the Congressional Budget Office. The principle of it is basically to take the dollars we have available and give them to Americans and let them buy their health care insurance, so instead of expanding government programs, including for low-income Americans, you get the dollars, you get the health care, and that takes care of virtually everybody.

All the plans from this side of the aisle, like those on the other side, say everybody needs to be insured. You are not disqualified for a preexisting condition. And the cost has to be affordable. All of us agree on that. The difference is whether it is going to be government programs or whether you are going to have dollars you can choose. That is the big difference, and we hope the American people will pay attention to the differences we are offering. We believe they will because, as you look at the Democratic plans, the costs are becoming alarming.

The first cost we saw was to the national debt, which was to expand between $1 trillion and $2 trillion, at least in the bill we have been considering in the HELP Committee. But then in the new versions of it, the sponsors began to shift the costs. Well, where do they shift it? The first place they shift it is to employers. It is a bad idea.

We have a 10-percent unemployment rate in the country today. People work for employers, and all the evidence shows, if we add costs to employers, one of a couple things happens. One is, the wages of the employees are reduced because the employer has to pay higher taxes. The second thing is, you add costs to employers and some of those employers go overseas.

I was in Tennessee last week talking to a lot of auto suppliers, air-conditioning manufacturers. They watch their costs every day. They are in discussions with their companies about that if costs of electricity or health care or anything else go up too much, they begin to go overseas and look for lower costs. We have already seen what has happened to the automobile industry in the Midwest because of high health care costs. So why is it such a good idea to begin to shift the costs and have every employer pay at least a $750-per-employee tax as a way of reducing the cost of health care?

Then the other place these plans begin to shift the costs is to the States. That is a convenient place to shift it. I used to see that as Governor. The Acting President pro tempore was speaker of the house in his State. We are familiar with Members of Congress who hold big press conferences and announce a good idea and take credit for it, and then they send the bill to the Governor or the speaker of the house or the legislature or the mayor and say: Here, you pay for it. It is called an unfunded Federal mandate.

The unfunded Federal mandate in this case is to the Medicaid Program. The Medicaid Program, in my view, is a terrible choice for a way to expand coverage for low-income families. Already, 60 million Americans get their health care through their State Medicaid Program, which is usually funded about 60 percent by the Federal Government. But the problem is, it is so poorly run and so underfunded the way it is managed that 40 percent of doctors will not see Medicaid patients.

So when you expand the Medicaid Program and dump more low-income Americans into it, you are giving people a bus ticket to a company that does not have very many buses. So they do not get good health care service. That is not the way we should be doing this. But that is the way we are trying to do it.

Then there is another person who is going to be affected by that expansion of Medicaid, the government program, and that is the taxpayer. The costs of the expansions that are being discussed when you expand the program to 150 percent of the Federal poverty level—and when you, in addition to that, try to attract more doctors and hospitals to serve Medicaid patients, and you require States to pay more to doctors and more to hospitals than they are today—the numbers are staggering.

The Congressional Budget Office has said: It is a $500 billion figure over 10 years, or maybe it is $700 billion if you go to the fourth year and go for 10 years after that, or maybe it is more than that, depending on the various formulas you come up with. And we will assume all that at the Federal level? Maybe we will to start with, but after a few years, it will go back to the States. We say that easily here because we have a printing press, and we have suddenly gotten used to talking about trillions of dollars. But States cannot do that. States do not have printing presses. They have to balance their budgets.

I did a little calculation. If we expanded the Medicaid Program by 150 percent of the Federal poverty level and required States to put everyone in there, and if we increased the payments to doctors and to hospitals to 110 percent of Medicare levels, which is still significantly below what private plans pay, it would add about $1.2 billion every year to the budget just for the State's share of Medicaid. That is about a 10-percent new State income tax in our State to pay.

So that is the shifting of a cost. That is not just a little cost shift. That is an impossible cost shift. That is not even in the area of reality. I think as employers begin to discover what they are going to be taxed and when States discover what they are going to be taxed and Medicaid recipients realize if they get into this program that 40 percent of the doctors will not see them, this is not going to be a very popular alternative.

Then, last week, we heard about Medicare cuts. Some of the Democrats in the Senate have made an agreement with the hospitals to cut Medicare. That is not so bad, they say. But what is even worse—even worse—is they are going to take the savings from Medicare cuts and spend it on a different program. We all know that the biggest problem we have with the Federal budget is the rising cost of Medicare, and we have to bring that under some control—control the growth of Medicare.

But if we are going to take any money out of the Medicare Program, it ought to be spent on the Medicare Program for the seniors who are in it. We ought not to take money from the Medicare Program and use it to pay for some new program we are talking about passing.

So all these plans that are being talked about are shifting the costs. First, they are adding to the Federal deficit by maybe $1 trillion. And then they are shifting the rest of the cost to employers who are struggling, to States who are broke, to taxpayers in the States, 10 percent of whom are unemployed. Then they are taking money out of Medicare and spending it instead of spending it on Medicare.

I do not think this is going to work. So I suggest my advice at the beginning of this discussion 3 weeks ago is still good: Start over. Start over with one of the Republican plans or with a bipartisan Wyden-Bennett plan. Fourteen Senators are already there: 8 Democrats and 6 Republicans. And let's begin with the 250 million Americans who are already covered and make sure their costs are appropriate, that they can afford their health care, and that when we get through with this health care fix, that Americans can afford their government.

One other area of an idea that I hope—and we hope—our friends on the Democratic side will agree with and the President eventually will agree with and the American people will agree with has to do with how we go about having clean energy.

On Monday, I will be making a speech at the National Press Club at 11 a.m. about a blueprint for 100 new nuclear powerplants. This is a part of the Republican clean energy strategy which has four provisions to it. The first is 100 new nuclear powerplants in the next 20 years. The second is: electrify our cars and trucks. I believe we can electrify half of them in 20 years. The third is: explore offshore for natural gas and oil. And fourth is: double research and development of energy. I would call it mini-Manhattan projects to help make alternative energy, such as solar, cost competitive with fossil fuels, so the use can be more widespread or for carbon recapture so our coal plants can be cleaner or for advanced biofuels from crops we do not eat to make that fuel more competitive with gasoline or even with fusion and green buildings. These are the kinds of things we should be doing.

The Republican energy plan, which is based on 100 nuclear powerplants, is a cheap energy plan. It is cheap and clean energy. The Waxman-Markey bill, the so-called climate change energy bill that is coming from the House, the Democratic plan, is a high-cost clean energy bill.

Let's stop and think about the kind of America we would like to have. We want an America in which we have good jobs, and that is going to take plenty of energy. We use 25 percent of all of the energy in the world. We want an America in which we don't create excessive carbon so we can reduce global warming. We want clean air—that kind of an America. We want one, too, in which we are not creating a renewable energy sprawl where these gigantic machines are spreading across landscapes we have spent a century preserving. Of course, we want the hundreds of thousands of green jobs that can come from renewable energy, but we don't want to do it in a way that kills the tens of millions of red, white, and blue jobs that most of us work in.

We don't want to run our manufacturing and technology, high-tech companies overseas looking for cheap electricity because of the strategy we take for clean energy.

The strategy that is coming toward us from the House, the Democratic proposal, is a high-cost strategy. It is a $100 billion a year burden on the economy which is unnecessary. It is high taxes, and it is more mandates, and it is a new utility bill for every American family.

What Republicans want to say is there is a different approach that will get us to about the same place. I actually think it will get us there faster. This approach starts with 100 new nuclear powerplants. That means we will have electricity that is cheap enough so that cars can be built in Michigan and Ohio, as well as Tennessee, instead of Mexico and Japan. It means we would be producing more of our energy at home. It means our air will be cleaner. Nuclear power is 70 percent of our pollution-free, carbon-free electricity today, while solar and wind, for example, is 6 percent. And it will do what we need to do to reduce global warming. In fact, our plan should put us within the Kyoto limits by 2030, because nuclear power produces 70 percent of the carbon-free electricity, and carbon is the principal greenhouse gas that contributes to global warming.

So my question would be: Why would we adopt this contraption headed this way from the House—$100 billion of taxes on the economy, giveaways, payoffs, surprises, complications, cow taxes—why would we do that? Why would we raise our prices deliberately when we can deliberately lower our prices with the technology we already have?

We haven't built a new nuclear plant in 30 years, but France has. They are 80 percent nuclear. So European plants are moving to Spain. France has among the lowest electric rates in the European Union and among the lowest carbon emissions in the European Union. India and China are building nuclear plants, with our help, our technology, and we are helping them do it. Japan is building a nuclear powerplant about every year, and the President has even said Iran can do it. Then why don't we get in the game? We know how to do it and we should, and we should be doing it.

On Monday, I will be suggesting at the National Press Club on behalf of Republicans—but I want to recognize right at the outset that we are not trying to make this a Republican—it is a Republican initiative, but we don't want to end up there. We know that several of our friends on the other side are strong supporters of nuclear power. We would like for more of them to be. We would like for the President to be. I would like for him to be half as interested in 100 new nuclear powerplants as he already is in windmills. I think he would get a lot farther with a plan that includes 100 new nuclear powerplants.

All this needs is Presidential leadership. It doesn't need a lot of money. The financing systems we need to help get the first six or eight nuclear plants up and going are designed so the taxpayer doesn't lose a cent. The first 100 nuclear powerplants which were built in about 20 years were built by the utilities with ratepayer money, not government money.

As far as safety, as far as what do we do with the waste, we have come a long way in the last 30 years. Our plants are safely operated. Dr. Chu, the distinguished scientist who is the Energy Secretary, said that to me at a hearing this week. We have operated safely our nuclear reactors and our nuclear submarines since the 1950s. We sometimes forget about that. France and Japan and Germany and India and China all know that if they want clean air and cheap energy for good jobs, they will have to use nuclear power. So we need to do that as well. And the waste? Let's call it used nuclear fuel. Scientists assure us that used nuclear fuel can be safely stored on site—and there is not very much of it in mass—safely stored on site for the next 40 or 60 years. That is step one. Step two is a mini-Manhattan Project of the kind we had during World War II to explore all of the most important ways to safely recycle the nuclear fuel so we can use it again and never create plutonium in the process. Scientists believe we can do that, figure that out in 8, 10, 12 years. We already have acceptable ways to do it. France is doing it that way now. But while we store it, we can figure that out. The United States is smart enough to do it.

So that would be our proposal on Monday. All 40 Republican Senators are united on it. We are looking for support on the other side. I think more support will come, because as Americans look at this $100 billion economy-wide cap and trade, they are going to say, Whoa, I hope that is not the answer to this problem.

Let me give you one example. The economy-wide cap and trade applies to fuel. That is the gasoline in your car or your truck. One thing we know for sure: It will raise the price of your gasoline at the pump. You will be paying 10 or 20 or 30 cents more. You might be paying 50 cents more, but it probably won't reduce the carbon that comes out of it. Gasoline fuel produces a third of the carbon we are worried about, but they have adopted in the House a device called the economy-wide cap and trade that won't do anything about it. We have had plenty of testimony on that, because if it goes up 10 or 20 or 30 cents, that is not enough to change the behavior of Americans.

The better way to do it is a low carbon fuel standard that gradually reduces the amount of carbon as people shift to other fuels. That is why we are for electric cars, because we have so much unused electricity at night that we can plug in our cars and trucks at night until we have electrified half of them without building one new powerplant. So why in the world would they go to the trouble of creating this 1,400-page contraption of mandates and taxes and rules that raises prices and doesn't reduce the carbon they are aiming at? Of course, on the coal plants, they are 40 percent of the carbon. If we can begin to build nuclear powerplants, then the utilities will probably close some of the dirtiest coal plants.

Our vision is, as we look ahead 20 years, we can see 40 percent of our electricity from nuclear; maybe 25 percent from natural gas—that is a little more than we have today; maybe 8 or 10 percent from solar and wind and geothermal and biomass and some of these renewable energies; another 10 percent from hydroelectric; the rest from coal—a significant amount, still. Hopefully, along that way one of these mini-Manhattan projects will have found an even better way to capture carbon from coal plants.

This is the real clean energy policy. That would get us to the Kyoto protocol. What is more important is that we want to reindustrialize this country with cheap energy, cheap electricity. We don't want to run jobs overseas.

Then the final part of this for the dream of energy is that it is cheap. People around the world are poor, and the single thing that would help them most is to have low-cost or no-cost energy. We are on the verge of doing that with nuclear power. We should be pursuing that instead of deliberately raising the price of energy in an ineffective way toward a goal—in this case combating global warming—that seems to be completely lost—completely lost—in the manufacturing of this contraption that came from the House of Representatives that is going to give you a new utility bill every month.

So those are three Republican ideas that we have and that we hope our Democratic colleagues will be interested in. We hope the President will see them as constructive suggestions. We hope they will provide a check and a balance on the excessive debt and the number of Washington takeovers we are beginning to see in Washington.

First, we congratulate General Motors on its coming out of bankruptcy, and a good way to celebrate would be to give all of the stocks to the taxpayers who paid taxes on April 15, stop the incestuous political meddling in the car companies, give them an investor fan base to cheer on the new Chevy.

Second, let's start over on health care costs. Let's start at the right end. Let's start with the 250 million Americans who already have health care and make sure it is good health care, and that they can afford it, and that when we are through with our reforms, they can afford the government that they are left with and they don't have trillions more dollars in debt. To do that, we have four or five proposals on the table which fundamentally say: Take the dollars we have and give them to

Americans and let them buy their own insurance rather than stuff them into government programs.

Finally, we want clean energy, but we want low-cost clean energy. We want clean air. We want global warming dealt with. We want American independence, but we want energy at a cost that will keep our manufacturing jobs and our high-tech jobs right here at home and not overseas looking for cheap energy. We have a way to do it: 100 new nuclear powerplants, electric cars, offshore exploration for natural gas—that is low-carbon oil. We are still going to need it, so we might as well use our own, although we will use less. Finally, several mini-Manhattan projects for research and development on solar and fusion and other areas that will help us change the energy picture, maybe after 20 years.

These are exciting times. We are glad to be able to contribute our ideas to the debate, and we hope the American people will listen and, eventually, we hope our friends on the other side will join us, and that even the President will take some of our ideas and make them a part of his agenda.

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

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

The bill clerk proceeded to call the roll.

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

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

INDONESIAN PRESIDENTIAL ELECTION

Mr. BOND. Mr. President, I rise today to talk about a very recent event that is important to the United States and which should have received a lot greater publicity than it did. I know the occupant of the chair, who is from Alaska, understands the importance of Southeast Asia to our economy and to security for the world. This is where the event took place. On July 8, the people of Indonesia elected democratically their second democratically elected president, Susilio Bambang Yudoyono. For obvious reasons, he is known by the initials SBY. He enjoyed a victory, according to preliminary results by the national election commission, of 62 percent of the vote, based on more than 18.7 million ballots counted. He needed 50 percent of the ballots to win in one round.

His challengers, former President Megawati Sukarnoputri, came in second, with 28 percent, and his previous vice president, Jusuf Kalla, finished third with 10 percent. We will have an official result released by the election commission by July 27.

I think it is very clear that SBY won an overwhelming election. This would put Mr. Yudhoyono well over the 50-percent threshold to avoid a second-round runoff. Those who watch Southeast Asia believe that such an emphatic election victory for a man who became the democratically elected President 5 years ago will cement his position, quicken the pace of reform, and strengthen the country that is very important to that region and, thus, to the United States.

Mr. Yudhoyono rose under the dictator Suharto, who was forced out 11 years ago after more than three decades in power, to a position in the army, where he was a general. But when he became President, he set aside his military uniform and took on civilian garb. He is a liberal who provided much needed stability. Despite the challenges of dismal infrastructure and 30 million Indonesians living below the poverty line, a country that extends through some 17,000 islands at low water, and 13,000 islands at high tide level, it is a country that is the largest Muslim country in the world. A population of 240 million people makes it the fifth largest country in the world. It has 90 percent of its population as Muslims. So this is the key to dealing with a Muslim nation.

Mr. Yudhoyono is credited with bringing economic prosperity with an economy set to grow even in the face of the global downturn, expected to grow by 4 percent this year. Independent observers declared that the Presidential election was largely free and fair, despite an accusation of fraud by his opponents. There is no evidence of that, and we believe it was a free election. It is key to our national interest because it is the keystone for Southeast Asia.

Southeast Asia includes a number of countries, perhaps better known to the United States—Thailand, Singapore, Malaysia, and many smaller countries. It is the fifth largest trading partner of the United States. On top of that, it controls the Strait of Malaka, through which about 50 percent of the world's oil supply travels. It is also an area which offers tremendous opportunity for economic growth for them and increased trade and economic benefits to the United States.

SBY was a general in the national army during the last decade of the Suharto years. During that time, fortunately, he attended the International Military Education Training Institute at Fort Leavenworth, KS. There, leaders of friendly countries come to learn from our military how a military should operate in the modern era where military is under civilian control, where human rights and individuals are respected, where the army does not control the political process, where the army is subordinate to and the protector of the population, rather than one which runs the population.

During his first tenure, as I said, he faced many challenges, and they were successful. He chose as his running mate Mr. Boediono, who we believe raises expectations of accelerating reform in the second term of SBY. Boediono is a technocrat with no party affiliation. He possesses an impeccable track record for clean governance. He is an advocate, as is SBY, of market-led growth, with government acting as an impartial regulator rather than a state actor. The duo campaigned on a ticket of clean governance and reform to promote broad-based economic growth. This was a vote by the predominantly Muslim country for a moderate prodemocratic path that Indonesia has already taken. They still face many challenges—not just poverty—with the economic problems in the country. They face a long tradition of corruption that has to be dealt with. SBY has taken steps to deal with that and needs to take more steps.

They also face the challenge from radical Islamists who want to establish Sharia law, a government by theocracy rather than by a popularly elected, constitutionally governed government. I will speak more about that in a minute.

Let me give you a little taste of the rest of it. His closest rival, Megawati Sukarnoputri, was the daughter of Sukarno, Indonesia's founding father. Ms. Megawati failed to impress voters during her term as President from 2001 to 2004, and she partnered with a general who was indicted for human rights abuse and was a former son-in-law of a previous authoritarian dictator. They ran a nationalistic campaign that was rejected by the voters of Indonesia.

The third ticket, comprised of current Vice President Jusuf Kalla and a former chief of the army, Wiranto, championed a similar ideological platform, with the difference being that Jusuf Kalla was a link between big national businesses and the government, which we thought he would probably enhance. This sets up an opportunity for the United States.

We are dealing with a very important Islamic country. I believe that it is time for us to realize this is an area where we can make significant progress, if we learn how to work with and provide significant support to a democratically elected head of an Islamic country, who wants to move on the path toward greater economic ties, free from corruption, open to trade and business.

I happen to have laid all this out in a book called ''The Next Front,'' coauthored with Lewis Simons, a Pulitzer Prize-winning reporter. It will be published by Wiley Books in October. We call it ''The Next Front'' because what people did not realize until recently was that, after 9/11, one of the indigenous terrorist groups in Indonesia, Jema Islamia, which we will call JI, was a close ally of al-Qaida, and still is. That is a terrorist organization that has spread from Indonesia into the Philippines, and potentially other parts of Asia. The leader of JI was tasked by al-Qaida with carrying out the second attack following 9/11, which was to be on Los Angeles. Fortunately, our CIA, by aggressive tactics and military tactics, prevented that attack.

There is still a real danger to not only peace and stability and progress

in Southeast Asia, but to the security of the United States, unless we ensure that a government such as Yudhoyono's manages to provide security and prevent the development of terrorist training areas and agencies, where they are willing and able to carry out operations, disrupt terrorist organizations.

In ''The Next Front,'' we argue, as I have, that the best way to do that is through significantly increasing contact between the United States and those governments that are dealing with those problems, that are on the wrong track, which have the potential to provide security and peace and prosperity for their own homeland. When they have too many young males who cannot find a job, they are often lured by the radical religious extremists into the terrorist organizations and convinced to undertake terrorist attacks on Americans, on democratically elected governments.

We believe that steps that were taken yesterday in the Foreign Operations Committee, under the able leadership of Chairman LEAHY, to put us on the path to increasing significantly the assistance and the contact we have with Southeast Asia. We increased to $65 million the amount of economic support fund assistance. They also instituted other programs to provide more assistance for Peace Corps. An expansion of the Peace Corps is one way to get American sandals on the ground now, so that we don't have to put American boots on the ground later.

Smart Power says that when you are faced with a radical, violent extremist group like al-Qaida, or the Taliban, which we face in Afghanistan and Pakistan now, you have to use force to deal with them. At the same time you are using force, you must build up the economy and meet the needs of the local leaders, so that they will work with the forces who are trying to drive the extremists out. That was the secret to the success of General Petraeus in Iraq with the counterinsurgency strategy, who said we will not only clear an area but we will go in and hold it and build, looking to local leaders to tell us what they are doing.

My son, who is a marine, an intel officer who served two tours there, said the first time he was there they couldn't get support from the local government because they were getting no assistance from Baghdad. They were Sunnis in Fallujah. The government in Baghdad was not Sunni; they were Shia, and they didn't provide assistance. The second time, the counterinsurgency and our government were working through the popularly elected Iraqi Government to provide support and assistance to the Sunnis in Fallujah. They were able to cooperate and provide assistance and make sure they kept that area safe.

We are trying to do the same thing now in Afghanistan. I am proud that the Missouri National Guard is leading the way, along with 10 other States' national guards, and we are sending over agricultural development teams to help the local farmers develop a more effective means of producing crops. We saw, last year, in Kandahar province, where the Missouri National Guard operated for 1 year. They started producing much more high-valued crops. As a result, they no longer needed to produce the poppies needed by the drug lords to manufacture cocaine and dope and opium. They were able to drive the poppy producers—put them into productive use and take the drug lords out, and the Taliban which normally follows them. This is working in Afghanistan.

In areas where we have peaceful governments that are threatened by extremist groups, it makes sense that we increase economic assistance but primarily personal assistance—one-on-one assistance from American volunteers going there—economic assistance, encouraging American firms to invest there, to help them develop small- and medium-sized enterprises; opening up free trade so their products can come into the United States so we can trade with them and so they can build their economies. We need significantly to increase educational exchanges between our countries and theirs.

I mentioned earlier that President Yudhoyono had served in the IMET Program at Fort Leavenworth. I first met him as President—well, I met him before—when I went to Indonesia after the tsunami in Bugatchi, and we talked about the work we were doing to help them recover from that tragic event. But I also extended an invitation for him to come to Webster University in St. Louis, MO, from which he had also gotten a degree. They gave him an honorary degree, and I was pleased to introduce him when he came to St. Louis to Webster University.

His is just one of hundreds, thousands, millions of examples where we have helped develop leaders in countries with which we are allied and which can be even stronger allies. They could take the information we develop, take the learning and the skills we have, and provide the assistance they need to strengthen their country, to provide not only security but a good livelihood for their people so there will no longer be unemployed young men who are willing to take blood money from the terrorists in exchange for a pittance for their family to conduct terrorist attacks.

We think we have a great opportunity not only in Indonesia, following these steps—expanding on the Smart Power that has been used in Iraq, is now being used in Afghanistan—to show that people who work with the United States can expect not domination but help in establishing their own free country, their own democratically elected principles, respect for human rights, and a respect for religious differences so that we respect Muslims and they respect Christians and Jews and Buddhists and Hindus.

That was the original idea of the country of Indonesia when it was founded in the 1940s. They laid out the principles of Pancasila—in which we recognize diversity; we recognize there are different religions; we will learn from and tolerate differences, particularly in religion.

We have a challenge facing us in Indonesia and others where extremists want to establish shariah law, which has mullahs and ayatollahs who prescribe very harsh penalties for women who step out of place, who appear without total cover in broad daylight, where anybody who commits a violent crime is either thrashed or has a hand cut off or is put to death. This kind of backward approach to maintaining law and order is a threat to the civilized world and progress as we know it.

In Indonesia, we have the opportunity to move forward, and I congratulate the people of Indonesia. I particularly congratulate Susilo Bambang Yudhoyono and Vice President Boediono on their election—reelection—on July 8, and we look forward to seeing the final results certified on July 27. I hope I will have the support of my colleagues for the robust foreign operations support for Smart Power. It is the wave of the future.

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

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

HEALTH CARE REFORM

Mr. WYDEN. Mr. President, as the Congress focuses on health care reform, I wanted to take a few minutes to discuss one approach that has been documented by the Congressional Budget Office as producing significant cost savings in American health care. That approach is free choice and rewards for selecting health care wisely.

Today, 85 percent of American businesses that offer health care coverage offer no choices. That is not because they would not like to. Quite the contrary; they would very much like to offer additional private sector choices. But for example, if you are a small businessperson—and I know the distinguished Senator from Alaska identifies with this—and you go out into that broken private insurance market, with huge administrative costs very often approaching 30 percent, you can't offer choices. Without choices there can't be real competition and accountability in health care. As a result, costs go up and care for our workers and our employers and small businesses and others becomes less affordable.

Some in America enjoy a better system, one where they have a full array of private sector health care choices.

Everyone in this Chamber knows what that is all about because it is the system we have as Members of Congress. We get a menu—a menu of private health plan offerings. The plans that are offered to Members of Congress can't discriminate, for example, against someone with a preexisting illness.

You go into a large group where you have a lot of bargaining power, which means you can hold down costs, and you don't face discrimination on the basis of age. That is particularly important because it looks as if under some of the approaches that are being discussed in the Congress there could be significant discrimination against older workers.

I believe all Americans should have the opportunity to be part of a health care system where they have more choices, and they are in a position to benefit from the wise selection of those kinds of choices. I think that will lead to reduced costs, and I think it will lead to more affordable health care coverage.

The legislation that is being developed in the Congress would not allow most people to have the free choice of insurance exchange plans. In fact, it wouldn't allow them to have free choice of health plans generally, whether they are in a private plan or a public plan. Without choice, there won't be competition to hold down costs.

So I very much hope in the weeks ahead Democrats and Republicans alike will come to see what the Budget Office has documented, and that is free choice of an increased menu of private sector health care—where the insurance companies can't cherry-pick, where they can't discriminate against someone with a preexisting illness, where people would go into a large group, and where you don't have older workers being discriminated against—will hold down skyrocketing health care costs and help keep quality health coverage affordable. I would hope Democrats and Republicans would see that kind of approach, with expanded choices, would help hold down health care costs and make health care more affordable for our people.

The reason I have focused on this question of holding down costs, making coverage more affordable by expanding choices—free choice, as I call it—is in light of the discussion we have held this week in the Senate on the costs of health care reform.

I note my friend from Utah, Senator HATCH, is here. He is someone who has, in my view, done so much good work on health care for children, for community health centers, for a variety of needs in our country. He and I participated in discussions, particularly in the Senate Finance Committee, about how to come up with additional money to expand coverage, particularly for the more than 45 million Americans who don't have coverage.

The Finance Committee is going to continue to grapple with this issue, but I only wanted to talk about cost savings through free choice today because I believe that is what most Americans look at first.

Most Americans feel very strongly that they want to get all our people covered. They know it is a disgrace that, in a country as rich and strong and good as ours, that close to 50 million people do not have coverage.

But they are also very concerned about the idea that, when you are already spending $2.5 trillion annually on health care, before you go out and spend a trillion dollars or more to pay for expanding coverage, you better have a plan to save money through choice, through the kinds of approaches I have been talking about in order to be credible. It is not credible to go to the American people and say we need $1 trillion or more to expand coverage, expand coverage and pay this huge sum on top of the $2.5 trillion being spent today, unless you have an actual plan to hold down costs and generate savings.

That is why I hope the Democrats and Republicans will look at how the Congressional Budget Office has documented that, through choice, you can generate significant cost savings and make health care more affordable.

I am concerned that the point I have made this morning has gotten a bit lost as the focus this week has been on the question of paying this very large additional sum to finance coverage expansion. There is no question that at a time of soaring deficits, the Congress must pay attention to what it costs to pay for health reform.

It would be fiscally irresponsible to pass health reform that is not paid for. But it would be equally irresponsible to pass a bill that is labeled health reform that fails to put a lid on the skyrocketing costs of our health care system. The two go hand in hand.

So what will provide significant savings? All the experts agree that we need to change incentives and behavior to change how people buy and use their health care.

First, show that you can generate cost savings for all Americans through increasing choice and rewarding those who make a wise selection of their coverage. That, in my view, ought to be built around what the Congressional Budget Office has documented, which is savings through an approach very much like what Members of Congress have. If you do that first, then you have the credibility to go back and say to the American people: Here are the choices in front of us for expanding coverage to the close to 50 million people who do not have it today.

What I have tried to describe this morning is a way to keep faith with the small business owners who are across this country, from Coos Bay, OR, to Oyster Bay, Long Island. Let's keep faith with them by showing we are going to hold down costs and then also, in a bipartisan way, come together and grapple with the question Senator HATCH and I were discussing with our colleagues this week, which is how to best and most responsibly finance coverage for the close to 50 million Americans who do not have it. I believe we can do it. I believe the approach I have outlined this morning is one path to do it.

I have never said, in the course of health reform debates, that it is my way or the highway. But I think we certainly ought to learn from the constructive analyses done by the Congressional Budget Office that show it is possible to get hard cost savings, not within a decade but within a matter of years, by expanding choices for our people and rewarding those who make a wise selection from that menu of choices.

I yield the floor.

Mr. HATCH. Mr. President, I note the Senator from Oregon has to read some things, but I have a brief additional comment to make and then I ask unanimous consent I be given the floor thereafter.

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

Mr. HATCH. Mr. President, the distinguished Senator from Oregon is one of the leading figures on health care in this Congress and has been in the past. He is thoughtful. He works very hard. He is one of the most contributing members of the Senate Finance Committee and I, personally, respect him very much and we have a very dear friendship. I appreciate the kind remarks he has expressed about me here today.

Mr. WYDEN. Mr. President, I have unanimous consent requests to make. Before I do that, I wish to say, again, how much I appreciate the Senator from Utah and his involvement and particularly his leadership on health care issues. When you look at the array of important legislation that has clearly improved American health care, Senator HATCH's name is all over that legislation.

Think about landmark legislation for children. It could not have happened without Senator HATCH. He and I have written legislation together. One of the accomplishments of which I am most proud is that we found a bipartisan way to increase coverage for community health centers by lowering their malpractice costs. I think it was an example of the way Senator HATCH approaches that kind of legislation. He brought together advocates of low-income people, trial lawyers, community health centers. Everybody said you could not find common ground among those kinds of organizations, and with Senator HATCH's leadership we were able to do it.

I am going to make a unanimous consent request, but I wish to tell the Senator from Utah I am convinced this year we are going to be able to pass health reform. One of the reasons we are going to be able to do it is because of both the good will and the expertise of the Senator from Utah. I am very

much looking forward to working with him on that.

Mr. HATCH. I thank the distinguished Senator from Oregon and appreciate his remarks.

The PRESIDING OFFICER. The Senator from Utah.

OBAMANOMICS

Mr. HATCH. Mr. President, I rise today to talk about the richest nan in the world, the new king of the hill. No, you won't find this financial titan in Forbes magazine's list of the world's billionaires. He hasn't started a mega-computer software company like Bill Gates. Nor has he made shrewd investments like Warren Buffet or even inherited this money like the Walton family of Wal-Mart fame.

No, the billions amassed over the years by those business magnates are chump change compared to that collected by the current champ, who has ascended to the title of the world's wealthiest man by collecting trillions of dollars in a mere 155 days.

He now owns two auto-manufacturing companies, oil sands and offshore drilling leases, interest in several hundred banks, and enough real estate holdings to make Donald Trump envious. In fact, managing this vast portfolio has become too time-consuming and too much for him to handle. He recently said, ''I don't want to run auto companies. I don't want to run banks. I've got two wars I've got to run already. I've got more than enough to do. So the sooner we can get out of that business, the better off we're going to be.''

I doubt even John D. Rockefeller, Cornelius Vanderbilt, Andrew Carnegie or William Randolph Hearst could ever have dreamed about having that amount of control. But despite his professed eagerness to divest himself of his newfound, unprecedented wealth, the reigning world's richest man, President Obama, seems reluctant to relinquish his vast holdings.

Indeed, I am beginning to think he actually enjoys this—well, what I call ''Obamanopoly.'' Soon, he will own all the railroads, all the utilities, Park Place and Boardwalk. And when taxpayers pick up the yellow or orange cards from the stacks, they will have to dig deeper in their wallet to fund this high-stakes Obamanopoly.

OK, I realize that our President does not really personally own all this wealth. But while I am speaking tongue in cheek, my remarks do point to the very real serious consequences of an ever-expanding U.S. Government. I care a great deal for the President, and I don't want to personally offend him. But I think the point is made.

We are moving toward what I have referred to as the ''Europeanization of America.'' On the spectrum between anarchy and a centralized government invested with complete power and control, our current government is so far removed from the limited government that our Founding Fathers intended that they must be rolling over in their graves.

There is method to this unprecedented meddling in the private sector. As the government acquires more auto manufacturers, banks, insurance companies and other private-sector businesses, we become more dependent on the government. The Obama administration's answer to everything is to take control of companies, increase regulation and spend, spend, spend. They are now talking about taxing and taxing more.

Not only does the government have more control over the economy, but it has a freer rein to regulate and restrict free speech. Modern political thought is, in many respects, based on a distinction between the public and private spheres. Liberal democracies—using the word ''liberal'' in the classical sense—have historically been based on the notion that there are realms that are ripe for government involvement—the public sphere—and others that should remain unaffected by government—the private sphere.

This was one of the central ideas behind the drafting of our Constitution and the founding of our Nation. Indeed, the Founding Fathers were all too aware of the problems that could arise under a government that is too expansive and too powerful. As James Madison, one of the main architects of the Constitution argued, ''All men having power ought to be distrusted to a certain degree.''

Because of this inherent distrust of those holding power, our Nation's Founders devised a government that was allowed to exercise its enumerated powers. As Alexander Hamilton stated, when it comes to framing a desirable government, ''[Y]ou must first enable the government to control the governed, and in the next place, oblige it to control itself.'' He also said, ''Indeed, the genius of our Constitution is that it provides an effective government that is subject to strict limitations.''

But it isn't only in the Constitution that we can observe the relevance of this public-private distinction during the Founding Fathers' generation. The beliefs, practices, and culture of that era further demonstrate just how separate and distinct our nation has traditionally viewed the public and private spheres. French political philosopher Alexis de Tocqueville, in observing the uniqueness of American government and culture, described how private citizens in America addressed needs in their communities. He stated:

> When a private individual mediates an undertaking, however directly connected it may be with the welfare of society, he never thinks of soliciting the cooperation of the Government, but he publishes his plan, offers to execute it himself, courts the assistance of other individuals, and struggles manfully against all obstacles. Undoubtedly he is often less successful than the State might have been in his position; but in the end the sum of these private undertakings far exceeds all that the Government could have done.

I believe this spirit of private determination still exists in our country today. I have argued many times that the American people are the most inventive and innovative people in the world. However, in an era when the President can impact huge portions of the American economy, that spirit is given little opportunity to work its magic in the private sector. Indeed, James Madison argued that ''there are more instances of the abridgement of freedom of the people by gradual and silent encroachments by those in power than by violent and sudden usurpations.'' I wonder how Madison would have viewed some of our current President's recent decisions.

Ours is a government that from the very beginning has been limited in what it can do and how far in may encroach into the private sphere. Those limits are not defined by the Nation's economic circumstances or political winds. There is not an exception in the Constitution that allows popular Presidents to exercise more power than unpopular ones. Ours is the oldest functioning constitutional republic on the planet, not because of change, hope, or adaptation, but because of consistency and respect for the limitations imposed upon our institutions. I believe many of the times we have struggled have been those in which we have strayed from the principal obligation that our Constitution imposes on the Federal Government—the obligation to control itself.

One such example—one often cited by the administration and my Democratic colleagues to justify the steps the President has taken—is the Great Depression. Some may say the Great Depression was the last time we saw such an expansion of government power. It came in the form of FDR's New Deal, which is now the model for how the majority and this President intend to remake the Federal Government and our economy. They credit the New Deal with ending the depression and claim that this new expansion will cure our current economic ills.

I hope, for our country's sake, that they are wrong.

What New New Deal proponents don't mention when making their case, is that even with Roosevelt's policies in place, the depression lasted for over a decade and, in fact, deepened in the late 1930s. Coincidentally—and I use that word sarcastically—the New Deal's supposed effect wasn't fully realized until the United States entered World War II.

Now, I don't mean to argue that our current situation is directly comparable to the Great Depression. I would say it is far from it. But I do hope that the Democrats' long-term plan isn't to keep expanding the Federal Government for several years, wait for an unforeseen outside calamity to take place and rescue the economy, and then take credit for the recovery.

To be sure, Roosevelt's New Deal was not without some success. But it largely failed to restore prosperity to the American economy because instead of implementing policies aimed as fostering economic growth and expansion, it was designed as a top-down restructuring of the economy—making the government the major decisionmaker in economic matters. The results were labor policies designed to preset wages at levels preferred by unions, regardless of market conditions; trade and manufacturing polices designed to set production at levels other than those set by supply and demand; and taxes on businesses that stifled growth and prevented them from hiring new employees.

Sadly, the President and the majority leadership in Congress have apparently decided that despite hat these shortcomings, the New Deal should be repeated. We have seen it in the President's efforts to seize control of auto companies, only to hand it over to his labor union supporters. We see it in proposals here in Congress to use the bankruptcy code to basically preset interest rates for lenders—and at a time when credit is is already getting harder to come by. And we are seeing it in their proposals to raise taxes on small businesses despite harsh economic times and rising unemployment.

President Obama may be the richest man in America these days, but he is doing so on the back of the American taxpayers. If history is any indication, his efforts will not leave anyone else in America any richer or better off.

It is not hard to find examples of the government growing at an exceptionally fast pace. Just by looking at the number of government employees as a percentage of America's population, one can easily see how we have increased the size of the government. In 1815, the U.S. numbered 8.3 million people, 4,837 of which were government employees. In other words, only about one-twentieth of 1 percent of Americans worked for the government. In 2007, our Nation numbered 281 million Americans, 2.7 million of them government workers. That is nearly 1 percent of the population, or about 20 times the number of government employees in 1815. That percentage will certainly increase, given this President's budget, which contains 121 new government programs.

Another indication of the growth of government power can be illustrated through the amount of government spending. Organization of Economic Cooperation and Development figures show that government spending in the U.S. is on the rise, comparable with that of many European countries. In fact, government spending has decreased in most European nations, while it has increased in the United States.

In France, for example, government spending is close to 50 percent of GDP, while England's government spending is roughly 44 percent of GDP, and Germany's is 45 percent of GDP. In the United States, Federal Government spending has been around 20 percent. However, to accurately compare the U.S. to European nations, it is necessary to include State and local spending.

Once that is factored in, U.S. Government spending exceeds 37 percent of GDP, and that is before President Obama's stimulus package and budget for this year are taken into account. Thus, it is almost a forgone conclusion that by the end of this year, total government spending in the United States will approach that of many European governments. We have jumped way ahead from the 2008 figure, with the current figure on that chart, just barely behind the European countries.

If you take a look at President Obama's past 5 months in office, you will see the largest proposed 10-year spending increase in our Nation's history. We have a stimulus bill worth $787 billion, or close to $1.3 trillion if interest is taken into account. We have nearly exhausted the $700 billion Troubled Asset Relief Program, and we have a budget proposal estimated to create a $9 trillion deficit over the next 10 years. According to the Congressional Budget Office, that is what is going to happen.

To put that another way, Federal spending would be nearly 24 percent of our Nation's GDP. Government spending, alone, in 2009 will reach 27 percent. That is Federal Government spending alone. In 2009, it will reach 27 percent. When you add in State and local spending, that would put us nearly on par in total government spending with Germany. You can see from this chart, we are almost right there.

The American people, especially Utahans, are speaking out against this increase in the size of government. They are organizing ''Tax Enough Already,'' or TEA, rallies around the country, and they are fed up with government bailout after bailout. They correctly wonder when or if this government expansion will ever stop.

That is why I have introduced two pieces of legislation to reduce government spending. One is called the Limitation on Government Spending Act, the LOGS Act, to limit government spending to 20 percent of GDP. The second is called the Stop TARP Asset Recycling Act, the STAR Act, and that is to prevent perpetual bailouts and to repay our national debt with returned TARP funds—don't just take them and spend more. Give them back to the taxpayers. Give them back to the government so we can pay down some of these deficits and some of these problems that are going on. They are two very important bills.

Let me discuss them again. The Limitation on Government Spending Act would limit government spending to the national historic average of 20 percent of GDP. While I believe government spending should be much lower than that, the least we can do is ensure that government spending does not get out of control like the way it is currently headed.

Furthermore, the Stop TARP Asset Recycling Act would require all funds paid out of the Troubled Asset Relief Program, or TARP—and that amounted to $700 billion—as to all those funds that are returned or paid back, they must be placed in the general fund to pay down the Nation's debt instead of being recycled back into TARP or more spending. Otherwise, TARP could become a revolving slush fund for the Treasury Department to bail out or seize companies. It is time we put an end to that.

The Obama administration's honeymoon is over. More Americans than ever agree we need to rein in this administration's runaway government spending. I might add, we better be prepared for massive taxation too. Their belief is to spend and tax and build the Federal Government at all costs. More Americans than ever agree we need to rein in this administration's runaway government spending.

According to a Washington Post-ABC News poll, barely half of Americans are now confident that President Obama's $787 billion stimulus measure will boost the economy. Think about it: barely half of all Americans. Furthermore, a USA Today poll reveals that a 51-percent majority disapproved of the job he has done in controlling Federal spending. Even President Obama agrees with this.

After the massive amounts of government spending he has signed into law, President Obama had the audacity to proclaim in an April 18 weekly address that we need to restore responsibility and accountability to our Federal budget. Who are we kidding? The President cannot put us on the course to a $9 trillion deficit and then tell us we need to be more fiscally responsible. That is akin to someone killing their parents, and then complaining about being an orphan.

In the same address, the President continued this hypocrisy by saying, ''We are on an unsustainable course'' and ''we need to restore the people's confidence in government by spending their money wisely.'' But wait. It gets even better. After signing into law a $787 billion stimulus and a $3 trillion deficit, he nobly stated:

> If we want to spend, we need to find somewhere else to cut.

If you doubt the hypocrisy, you do not have to look further than the current health care debate or the cap-and-trade program he proposes to pay for by levying even more taxes. The closest the President has come to cut spending was by calling upon his Department heads to find $100 million in savings—$100 million. I guess you would call that ''pocket change'' we can believe in.

Enough is enough. No more spending. No more taxes. No more government expansion. We are not looking for a new New Deal. We are looking for

smaller, more efficient government. We are not looking for another government bailout. Whatever happened to: Ask not what your country can do for you, ask what you can do for your country?

Where ''Obamanopoly'' is concerned, it is time to say: Game over. It is time to pull the reins on this headlong rush toward the Europeanization of America. As former President Gerald Ford said:

A government that is big enough to give you all you want is big enough to take it all away.

I am concerned about what is going on. I admit that President Obama is a very attractive human being. I personally like him. But I think this tax-and-spend set of policies we are seeing is taking our country down to the point of ruin, and we have to stand up and stop it. I have to tell you, if we do not do it, our kids and our grandkids and our great-grandkids—and Elaine and I have all three—are going to be paying a huge price.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT

Mr. DODD. Mr. President, yesterday I was unable to be here for the consideration and final passage of the Homeland Security Appropriations Act because of a death in my family, but I would like to submit my support for this important legislation for the RECORD.

Whether it is a natural disaster or an act of terrorism, we must maintain the ability to respond quickly and efficiently to security challenges. No job is more important than keeping our citizens safe, and no one does that job better than our front line public safety officials. This legislation provides them with the resources they need.

My fellow Connecticut residents and I know first hand how important it is to be prepared. Just last week, officials from FEMA and DHS toured Farmington and Wethersfield after tornadoes toppled trees and utility lines, damaging buildings and closing roads. The worst of the storm hit Wethersfield square-on, severely damaging 70 houses and leaving several to be condemned.

It is rare that a tornado touches down in Connecticut, but it reminds us that disaster can happen anytime, anyplace, anywhere.

At these moments of crisis, we must be assured that our communities have the first-responder personnel, training, and equipment necessary to keep families safe.

That is why I authored and continue to support the Assistance to Firefighters, FIRE, Grant Program to help equip and train firefighters, and the Staffing for Adequate Fire and Emergency Response, SAFER, Grant Program to increase the number of firefighting personnel.

We have made the Federal Government a partner to our Nation's firefighters and because we did, we have delivered more than $55 million to Connecticut communities in the last decade.

This year's bill includes $420 million in SAFER grants—double the amount appropriated last year. This funding will help to stem the tide of layoffs so that our communities can be protected by an adequate number of dedicated firefighters.

In addition, I was pleased that the Senate accepted an amendment I offered that provides an additional $10 million to the FIRE Grant Program. This increase will help more local fire departments equip and train first responders in Connecticut and across the country.

The bill also provides $300,000 for the Coast Guard Academy in New London to begin work on Eagle Pier, which will be the permanent home of the EAGLE, the historic tall ship seized from Germany during World War II.

For more than 60 years, Eagle Pier was the home of the Coast Guard Training Vessel EAGLE, but in recent years, as the aging pier has fallen into disrepair, the EAGLE has been homeported at a pier at Fort Trumbull.

The EAGLE is a Connecticut icon and one of only two remaining commissioned sailing vessels in American Government service, the other being Boston's USS Constitution.

In addition to showcasing a rich history, the EAGLE serves as a modern day seagoing classroom for Coast Guard Cadets, providing hands-on maritime instruction to supplement the students' rigorous classroom workload.

This bill makes important investments in our domestic security, first responders, and the State of Connecticut, and I am proud to support it.

AMENDMENT NO. 1430

Mr. CASEY. Mr. President, today, I join with Senator SANDERS, my colleague from Vermont, and Senator CARPER, my colleague from Delaware, in supporting an increase in funding for two essential programs in the fiscal year 2010 Homeland Security appropriations bill to support our brave firefighters: assistance to firefighter grants, AFG, and staffing for adequate fire and emergency response grants, SAFER.

The Assistance to Firefighter Grants, AFG, Program, commonly referred to as fire grants, helps fund the purchase of urgently needed emergency response equipment, apparatus, and training. The AFG Program relies on direct input from the locally affected fire services in the grant process to ensure funding reaches those agencies that are most in need. A fiscal year 2007 review of AFG by the Department of Homeland Security found this program to be 95 percent effective, the second highest rating of any program at the Department.

A recent needs assessment survey conducted by the Fireman's Fund Insurance Company found that 60 percent of respondents report that their local fire department has delayed equipment replacement purchases due to the economic downturn, and 50 percent reported that if economic conditions do not improve in the next year, it could affect their ability to provide service to their communities. Local fire department and EMS agencies need fire grants to continue to ensure the safety of citizens across the country.

A fire company in McAdoo County, located in east-central Pennsylvania, used its fire grant to purchase an automatic defibrillator. The biggest killer of firefighters in the line of duty is heart attacks, and now the brave men and women at McAdoo Fire Company are better protected as they risk their lives every day to help those in emergency situations.

SAFER grants assist fire departments in the hiring of career firefighters and the recruitment and retention of volunteer firefighters. The single most significant challenge facing volunteer fire service is recruitment and retention. Over the past two decades, the percentage of volunteer firefighters under the age of 40 has shrunk from 65 percent to 50 percent. The SAFER Grant program was created to provide funding directly to fire departments and volunteer firefighter organizations in order to help them increase the number of trained, ''front-line'' firefighters available in their local communities. SAFER grants enhance the ability of local fire departments' to comply with staffing, response and operational standards.

The Center Township Volunteer Fire Department, located in western Pennsylvania, received a SAFER grant in March of 2009. With that funding, they can recruit more volunteer firefighters and retain those who already give so generously of themselves in efforts to protect and help others. SAFER grants are particularly beneficial to municipalities that are growing by expanding the number of firefighters in conjunction with increased population growth and greater housing development. I am proud of the courage and self-sacrifice of volunteer firefighters in my home State and across the Nation and want to ensure that the Federal Government supports their dedication.

This amendment offers critical funding assistance to emergency first responders and ensures that the safety of our citizens remains a national priority.

COMMENDING NORM COLEMAN

Mr. HATCH. Mr. President, I wish to speak in honor of the service of my good friend, Senator Norm Coleman. Senator Coleman was among the more thoughtful and intelligent Senators that I have known. His presence in this Chamber will be sorely missed.

Senator Coleman came to the Senate with more insight into the lives and needs of his constituents than most obtain after years of service in Congress. He was elected mayor of St. Paul, MN,

in 1993. Of course, at that time he was a Democrat, but I don't hold it against him. He eventually realized the error of his ways and was reelected as a Republican in 1997. He became the most popular and well known mayor in Minnesota, mostly because he shared something in common with Minnesotans: a love of hockey.

In 1993, the Minnesota North Stars became the Dallas Stars, leaving the State of Minnesota without a franchise in the National Hockey League. Norm shared the view of probably every Minnesotan that this was just not right. Honestly, how can you have an NHL without a team in Minnesota? Due in large part to Mayor Coleman's lobbying efforts the NHL awarded St. Paul an expansion franchise in 1997, the Minnesota Wild.

You would think that bringing hockey back to Minnesota would be enough to get him elected to any office he wanted in the state. But, as many have observed, the people of Minnesota are unpredictable. In the 1998 gubernatorial election, in a race that grabbed the attention of many people throughout the country, Norm finished just 3 percentage points behind Jesse Ventura, whose preGovernor career was, to put it lightly, a colorful one.

Though this result had to be difficult for Norm, I think we all ultimately benefited from the outcome of that race. Norm was elected to the Senate in 2002 and immediately became known for his thoughtful demeanor and his dedication to the people of Minnesota. He was a loyal Republican, but he was also willing to work with those in the opposing party to help the State of Minnesota and the Nation as a whole. He supported President Bush, but, as should be expected of any loyal supporter, he was not afraid to express his disagreement or offer his advice with regard to changes and reforms. Indeed, I think Republicans and Democrats alike have had a good working relationship with Senator Coleman because, as many have noted here today, he was more concerned with getting things done and being true to his convictions than he was about being political and towing the party line.

Mr. President, while I welcome Senator Coleman's successor, I must admit that I was disappointed when I heard of the final decision of the Minnesota Supreme Court. Obviously, I don't like seeing the number of Republicans in the Chamber go down. But, more importantly, I am sad to see the Senate lose such a vibrant and intelligent voice. Indeed, I think his views and statements on the legislation being considered by the Senate this year would add greatly to the debate.

I want to wish Senator Coleman the best of luck in his future endeavors. While I am sure that he will be a valuable asset for any effort with which he becomes involved, I am more certain that he will be missed here in the Senate.

CHILDREN'S HOSPITAL OF PHILADELPHIA

Mr. SPECTER. Mr. President, I have sought recognition today to congratulate and recognize a tremendous asset to the children of Philadelphia, PA, the United States, and really the world—the Children's Hospital of Philadelphia. The hospital, or CHOP as it is known, has been ranked first in children's cancer, diabetes and endocrine disorders, neonatal care, respiratory disorders and urology care by U.S. News & World Report. I congratulate the hospital's president and chief executive officer, Dr. Steven Altschuler, and his team of over 10,0000 employees for this tremendous accomplishment.

CHOP was the Nation's first established children's hospital, growing from its original structure with 12 beds on Philadelphia's Watts Street to a sprawling campus in West Philadelphia with over 40 outpatient locations throughout southeast Pennsylvania and New Jersey, providing care to over 1 million patients last year.

CHOP notably provides the highest level of pediatric care and conducts groundbreaking research through funding from the National Institutes of Health. When I came to the Senate in 1981, funding for the NIH totaled $3.6 billion. Since becoming LHHS Chairman in 1996, Senator HARKIN and I have succesfully worked to more than double NIH funding, which was $12.7 billion at that time. In the fiscal year 2009 Senate LHHS Appropriations Subcommittee bill, we provided $30.2 billion for NIH funding, a $1 billion increase from fiscal year 2008. We also secured an additional $10 billion in funding through an amendment to the American Recovery and Reinvestment Act. I recently visited CHOP for a townhall meeting and was able to see firsthand some major discoveries that have occurred there as a result of NIH-funded research.

In a conversation with Dr. Philip Johnson, the director of CHOP's Research Institute, I learned about an experimental therapy developed at CHOP using elements of the body's immune system to improve cure rates for children with neuroblastoma, a challenging cancer of the nervous system. This type of cancer is very aggressive, causing 15 percent of all childhood cancer deaths. I am told that patients who received this therapy were 20 percent more likely to live disease-free two years after treatment. Shortly after visiting CHOP, I also learned of a study led by Dr. Johnson that could lead to an HIV vaccine, by inserting a gene into the muscle that can cause it to produce protective antibodies. AIDS is one of the most devastating pandemics, having killed more than 25 million people. Such a vaccine appears years away from realization; however, with continued investment from the NIH, it is possible that this work could save millions of lives.

I have fought and will continue to fight for increased funding for the NIH because medical research saves and improves lives. The medical research at CHOP, through federally funded NIH support, provides children with a real chance to be cured so that they may continue to grow and prosper.

As we continue the debate around health reform, it is important that we recognize the unique needs of children. As I stated, CHOP served over 1 million patients last year. When it opened in 1855, it treated just 63 patients in its first year. Clearly the demand for highly specialized, pediatric care is growing not only in Pennsylvania but throughout the United States; however, there are shortages in the number of pediatric specialists able to treat children with very particular needs. That is why it is important to support programs, such as the Children's Hospitals Graduate Medical Education Program, to help children's hospitals train future pediatricians. I have supported ample funding for this program because it helps address a national dilemma and provides children's hospitals with the resources they need to foster innovation and improve quality.

Mr. President, the accomplishments seen at the Children's Hospital of Philadelphia are unique and revolutionary. I am proud of CHOP for their efforts to improve children's health care and promote health and wellness.

MOLDOVA'S UPCOMING ELECTION

Mr. CARDIN. Mr. President, the Republic of Moldova holds repeated parliamentary elections on July 29, after previous elections on April 5 this year were followed by youth protests to display their lack of trust in the electoral process. These protests turned violent and led to arrests of hundreds of protesters, their severe beatings, and inhumane treatment while in police custody. Even an independent member of Parliament, Valentina Cusnir, was abused and beaten by police, suffering injuries. Three young men have died, and the cause of death is reported to be injuries from the beatings they received. Foreign journalists were expelled and local reporters were arrested and intimidated, their equipment was confiscated. The parliamentarian opposition parties, which accused the Communist Party in power of election fraud, have boycotted elections of the new President that, ultimately, triggered repeated elections. The Organization for Security and Cooperation in Europe stated that Moldova's recent elections had ''shortcomings that challenged some OSCE commitments, in particular the disregard for due process in adjudicating complaints of alleged irregularities and deficiencies in the compilation of voter lists lodged by opposition political parties.''

On July 29, the Government of Moldova has another chance to show her citizens and the international community that it remains committed to

democratic principles and international standards. Moldovan authorities must provide access for all electoral participants and civil society experts to public media outlets, as well as ensure the ability of voters abroad to participate in this important poll. The United States should condition good relations with the new government of Moldova based on its respect for the rule of law and human rights. The U.S. Helsinki Commission, which I chair, will continue to monitor the conduct of the electoral process in Moldova and will hold a public briefing following the elections.

ADDITIONAL STATEMENTS

TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 92 World War II veterans from all over Louisiana who will travel to Washington, DC on May 16 to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this trip to the Nation's Capital. The organization is honoring surviving World War II Louisiana veterans by giving them an opportunity to see the memorials dedicated to their service. The veterans will visit the World War II, Korea, Vietnam, and Iwo Jima memorials. They will also travel to Arlington National Cemetery.

This was the final of four flights Louisiana HonorAir made to Washington, DC, this spring. It is the 17th flight to depart from Louisiana, which has sent more HonorAir flights than any other State to the Nation's Capital.

World War II was one of America's greatest triumphs but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American servicemembers were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen, and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 30,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. This group had 32 veterans who served in the U.S. Army, 16 in the U.S. Air Force, 37 in the Navy, 4 in the Coast Guard, 2 in the Marine Corps, and 1 in WAVES.

Our heroes, many of them from the Shreveport area, trekked the world for their country. They fought in Germany, France, Italy, Africa, Japan, Guam, Bougainville, Guadalcanal, China, Iwo Jima, Okinawa, the Philippines, Tarawa, New Guinea, Korea, Thailand, and Saipan. Their journeys included the invasions of North Africa, Sicily and Normandy, New Georgia, and the Battle of Midway. Their fight for freedom even extended to Iceland and the Marshall and Solomon Islands.

One of our Navy veterans received the Asiatic Pacific Purple Heart, and an Army veteran fought at Normandy and received EAME Campaign and Bronze Service Star medals. Yet another Army veteran fought five major battles of European theatre.

A USMC veteran was one of four brothers serving in the Marines and fought in Guadalcanal, Bougainville, Guam, Saipan, and Okinawa. He lost his twin brother in Guam.

A Navy veteran observed the atomic bomb test at Bikini and was in Tokyo Bay the morning of the Japanese surrender. Another veteran was awarded five naval battle stars for his service in the invasions of Bougainville, Saipan, Iwo Jima, and Okinawa.

I ask the Senate to join me in honoring these 92 veterans, all Louisiana heroes, who visited Washington, and Louisiana HonorAir for making these trips a reality.●

MESSAGE FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2997. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 127. Concurrent resolution recognizing the significance of National Caribbean-American Heritage Month.

H. Con. Res. 131. Concurrent resolution directing the Architect of the Capitol to engrave the Pledge of Allegiance to the Flag and the National Motto of ''In God we trust'' in the Capitol Visitor Center.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 127. Concurrent resolution recognizing the significance of National Caribbean-American Heritage Month; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2997. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010, and for other purposes.

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. GILLIBRAND:

S. 1438. A bill to express the sense of Congress on improving cybersecurity globally, to require the Secretary of State to submit a report to Congress on improving cybersecurity, and for other purposes; to the Committee on Foreign Relations.

By Mr. WYDEN (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ENZI, and Mr. SCHUMER):

S. 1439. A bill to provide for duty-free treatment of certain recreational performance outerwear, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1440. A bill to establish requirements applicable across the military departments for the retention in the Armed Forces of members who seek to remain in the Armed Forces following injury or disability incurred in the line of duty in the Armed Forces; to the Committee on Armed Services.

By Mr. WYDEN:

S. 1441. A bill to amend title 38, United States Code, to grant family of members of the uniformed services temporary annual leave during the deployment of such members; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Ms. SNOWE, and Mr. UDALL of New Mexico):

S. 1442. A bill to amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service-learning opportunities on public lands, establish a grant program for Indian Youth Service Corps, help restore the Nation's natural, cultural, historic, archaeological, recreational, and scenic resources, train a new generation of public land managers and enthusiasts, and promote the value of public service; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. CORNYN, and Mr. VITTER):

S. 1443. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to modify State responsibilities under such Act; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 42, a bill to amend title II of the Social Security Act to preserve and protect Social Security benefits of American workers and to help ensure greater congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect.

S. 348

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the

universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 457

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 457, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 475

At the request of Mr. BURR, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Texas (Mr. CORNYN) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors 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. 559

At the request of Mr. WYDEN, the name of the Senator from North Dakota (Mr. CONRAD) 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. 629

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 629, a bill to facilitate the part-time reemployment of annuitants, and for other purposes.

S. 694

At the request of Mr. DODD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 694, a bill to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 711

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 823

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

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 934

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 935

At the request of Mr. CONRAD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 1157

At the request of Mr. THUNE, his name was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1265

At the request of Mr. CORNYN, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 1265, a bill to amend the National Voter Registration Act of 1993 to provide members of the Armed Forces and their family members equal access to voter registration assistance, and for other purposes.

S. 1284

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1284, a bill to require the implementation of certain recommendations of the National Transportation Safety Board, to require the establishment of national standards with respect to flight requirements for pilots, to require the development of fatigue management plans, and for other purposes.

S. 1304

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1415

At the request of Mr. SCHUMER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 25

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ENZI, and Mr. SCHUMER):

S. 1439. A bill to provide for duty-free treatment of certain recreational performance outerwear, and for other purposes; to the Committee on Finance

Mr. WYDEN. Mr. President, I rise today to introduce the U.S. Outdoor Act. no denying that this economy has got Americans worried. People are stressed, and with good reason. One thing that we see time and again during recessions is that people look to get their minds off the tough times for just a little while with low-cost, simple activities that the whole family can enjoy. Outdoor recreation fits that bill; it makes people healthier and happier too.

But recreational performance outerwear—jackets and pants used for skiing and snowboarding, mountaineering, hunting, fishing, and dozens of other outdoor activities—are assessed some of the highest duty rates applied to any products imported into the U.S. These disproportionately high tariffs, let us call them what they are, taxes, were originally implemented to protect U.S. outerwear manufacturers from foreign competition. Instead, now these import taxes stifle innovation, add substantial costs for outdoor businesses, and ultimately raise the prices we all pay at the cash register. We can fix this, help these companies to better compete globally while investing in eco-friendly technology and jobs here in the U.S., and help consumers in these tough times so more people can get out and enjoy the great outdoors.

So today, I am proud to introduce the U.S. Optimal Use of Trade to Develop Outerwear and Outdoor Recreation Act, or the U.S. Outdoor Act. This bill is the result of partnership between performance outerwear manufacturers and the domestic textile and

apparel industry. In 2007, the U.S. International Trade Commission found that there was no commercially viable production of performance outerwear in the U.S.. This legislation reflects those findings, and makes a solid investment in U.S. jobs. It spurs outdoor recreation and its industry, which accounts for $730 billion dollars and 65 million jobs across the U.S., with 73,000 jobs in Oregon, and this bill can potentially create many more. This would also help lower costs for consumers, who pay $289 billion in outdoor retail sales and services across the country, with $4.6 billion in Oregon.

The U.S. Outdoor Act eliminates the import duty for qualifying recreational performance outerwear, bringing duties that can be as high as 28 percent down to zero. It also establishes the Sustainable Textile and Apparel Research, STAR, fund, which invests in U.S. technologies and jobs that focus on sustainable, environmentally conscious manufacturing, helping textile and apparel companies work towards minimizing their energy and water use, reducing waste and their carbon footprint, and incorporating efficiencies that help them better compete globally.

The U.S. Outdoor Act reduces the costs for U.S. companies and consumers, encourages Americans to take part in healthy and active lifestyles through outdoor recreation, spurs economic activity, invests in the U.S. textile industry, supports American jobs and competitiveness, and encourages sustainable business practices to benefit the environment so we all can continue to enjoy the beauty that is the great outdoors.

I want to thank the Outdoor Industry Association, for their tireless work with my office, and with the U.S. ITC and other agencies in perfecting this bill. I also want to acknowledge and thank those in the U.S. textile and apparel industry who have partnered with the outdoor industry to develop a thoughtful and well balanced bill that supports American jobs and U.S. technologies. I thank my house colleague, Congressman BLUMENAUER, who had introduced an earlier version of this bill in the last Congress and is introducing companion legislation. Finally, thank you to my Senate colleagues, Senator CRAPO, who is an original cosponsor of this bill, Senator CANTWELL, Senator ENZI, and Senator SCHUMER.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2010

On Thursday, July 9, the Senate passed H.R. 2892, as amended, as follows:

H.R. 2892

Resolved, That the bill from the House of Representatives (H.R. 2892) entitled ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

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

TITLE I

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $149,268,000: Provided, That not to exceed $60,000 shall be for official reception and representation expenses, of which $20,000 shall be made available to the Office of Policy solely to host Visa Waiver Program negotiations in Washington, DC: Provided further, That $20,000,000 shall not be available for obligation for the Office of Policy until the Secretary submits an expenditure plan for the Office of Policy for fiscal year 2010.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $307,690,000, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount, $5,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations at the Nebraska Avenue Complex; and $17,131,000 shall remain available until expended for the Human Resources Information Technology program.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $63,530,000, of which $11,000,000 shall remain available until expended for financial systems consolidation efforts: Provided, That of the total amount made available under this heading, $5,000,000 shall not be obligated until the Chief Financial Officer or an individual acting in such capacity submits a financial management improvement plan that addresses the recommendations outlined in the Department of Homeland Security Office of Inspector General report # OIG–09–72, including yearly measurable milestones, to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the plan described in the preceding proviso shall be submitted not later than January 4, 2010.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $338,393,000; of which $86,912,000 shall be available for salaries and expenses; and of which $251,481,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security: Provided, That of the total amount appropriated, not less than $82,788,000 shall be available for data center development, of which not less than $38,540,145 shall be available for power capabilities upgrades at Data Center One (National Center for Critical Information Processing and Storage): Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology acquisition projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

ANALYSIS AND OPERATIONS

For necessary expenses for intelligence analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $347,845,000, of which not to exceed $5,000 shall be for official reception and representation expenses; and of which $208,145,000 shall remain available until September 30, 2011.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $2,000,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $115,874,000, of which not to exceed $150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, agricultural inspections and regulatory activities related to plant and animal imports, and transportation of unaccompanied minor aliens; purchase and lease of up to 4,500 (4,000 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $8,075,649,000, of which $3,226,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $309,629,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2010, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: Provided further, That of the total amount provided, $1,700,000 shall remain available until

September 30, 2011, for the Global Advanced Passenger Information/Passenger Name Record Program.

AUTOMATION MODERNIZATION

For expenses for U.S. Customs and Border Protection automated systems, $462,445,000, to remain available until expended, of which not less than $267,960,000 shall be for the development of the Automated Commercial Environment: Provided, That of the total amount made available under this heading, $167,960,000 may not be obligated for the Automated Commercial Environment program until 30 days after the Committees on Appropriations of the Senate and the House of Representatives receive a report on the results to date and plans for the program from the Department of Homeland Security.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for border security fencing, infrastructure, and technology, $800,000,000, to remain available until expended: Provided, That of the amount provided under this heading, $50,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure, prepared by the Secretary of Homeland Security and submitted not later than 90 days after the date of the enactment of this Act, for a program to establish and maintain a security barrier along the borders of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial systems, and other related equipment of the air and marine program, including operational training and mission-related travel, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $515,826,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2010 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION AND FACILITIES MANAGEMENT

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $316,070,000, to remain available until expended, of which $39,700,000 shall be for the Advanced Training Center: Provided, That for fiscal year 2011 and thereafter, the annual budget submission of U.S. Customs and Border Protection for ''Construction and Facilities Management'' shall, in consultation with the General Services Administration, include a detailed 5-year plan for all Federal land border port of entry projects with a yearly update of total projected future funding needs.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $5,360,100,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $305,000 shall be for promotion of public awareness of the child pornography tipline and anti-child exploitation activities; of which not less than $5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled aliens unlawfully present in the United States: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities in fiscal year 2010 to enforce laws against forced child labor, of which not to exceed $6,000,000 shall remain available until expended: Provided further, That of the total amount available, not less than $1,000,000,000 shall be available to identify aliens convicted of a crime, and who may be deportable, and to remove them from the United States once they are judged deportable: Provided further, That the Secretary, or the designee of the Secretary, shall report to the Committees on Appropriations of the Senate and the House of Representatives, at least quarterly, on progress implementing the preceding proviso, and the funds obligated during that quarter to make that progress: Provided further, That funding made available under this heading shall maintain a level of not less than 33,400 detention beds through September 30, 2010: Provided further, That of the total amount provided, not less than $2,539,180,000 is for detention and removal operations, including transportation of unaccompanied minor aliens: Provided further, That of the total amount provided, $6,800,000 shall remain available until September 30, 2011, for the Visa Security Program: Provided further, That nothing under this heading shall prevent U.S. Immigration and Customs Enforcement from exercising those authorities provided under immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) during priority operations pertaining to aliens convicted of a crime.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $85,000,000, to remain available until expended: Provided, That of the funds made available under this heading, $10,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan prepared by the Secretary of Homeland Security.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $5,237,828,000, to remain available until September 30, 2011, of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $4,395,195,000 shall be for screening operations, of which $1,154,775,000 shall be available for explosives detection systems; and not to exceed $842,633,000 shall be for aviation security direction and enforcement: Provided further, That of the amount made available in the preceding proviso for explosives detection systems, $806,669,000 shall be available for the purchase and installation of these systems, of which not less than 28 percent shall be available for the purchase and installation of certified explosives detection systems at medium- and small-sized airports: Provided further, That any award to deploy explosives detection systems shall be based on risk, the airports current reliance on other screening solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness, and increased cost effectiveness: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That any funds collected and made available from aviation security fees pursuant to section 44940(i) of title 49, United States Code, may, notwithstanding paragraph (4) of such section 44940(i), be expended for the purpose of improving screening at airport screening checkpoints, which may include the purchase and utilization of emerging technology equipment; the refurbishment and replacement of current equipment; the installation of surveillance systems to monitor checkpoint activities; the modification of checkpoint infrastructure to support checkpoint reconfigurations; and the creation of additional checkpoints to screen aviation passengers and airport personnel: Provided further, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year appropriation from the general fund estimated at not more than $3,137,828,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2011: Provided further, That Members of the United States House of Representatives and United States Senate, including the leadership; the heads of Federal agencies and commissions, including the Secretary, Deputy Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $142,616,000, to remain available until September 30, 2011.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $171,999,000, to remain available until September 30, 2011.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $999,580,000, to remain available until September 30, 2011: Provided, That of the funds appropriated under this heading, $20,000,000 may not be obligated for headquarters administration until the Secretary of Homeland Security submits to the Committees on

Appropriations of the Senate and the House of Representatives detailed expenditure plans for air cargo security, and for checkpoint support and explosives detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2010: Provided further, That these plans shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $860,111,000.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; for purchase or lease of small boats for contingent and emergent requirements (at a unit cost of no more than $700,000) and for repairs and service-life replacements, not to exceed a total of $26,000,000; minor shore construction projects not exceeding $1,000,000 in total cost at any location; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $6,838,291,000, of which $581,503,000 shall be for defense-related activities, $241,503,000 of which are designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which not to exceed $20,000 shall be for official reception and representation expenses; and of which $3,600,000 shall be available until expended for the cost of repairing, rehabilitating, altering, modifying, and making improvements, including customized tenant improvements, to any replacement or expanded Operations Systems Center facility: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That the Coast Guard shall comply with the requirements of section 527 of Public Law 108–136 with respect to the Coast Guard Academy: Provided further, That of the funds provided under this heading, $30,000,000 is withheld from obligation from Headquarters Directorates until the second quarter acquisition report required by Public Law 108–7 and the fiscal year 2008 joint explanatory statement accompanying Public Law 110–161 is received by the Committees on Appropriations of the Senate and the House of Representatives.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the Coast Guard under chapter 19 of title 14, United States Code, $13,198,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $133,632,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,597,580,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $123,000,000 shall be available until September 30, 2014, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $147,500,000 shall be available until September 30, 2012, for other equipment; of which $27,100,000 shall be available until September 30, 2012, for shore facilities and aids to navigation facilities, including not less than $300,000 for the Coast Guard Academy Pier and not less than $16,800,000 for Coast Guard Station Cleveland Harbor; of which $105,200,000 shall be available for personnel compensation and benefits and related costs; and of which $1,194,780,000 shall be available until September 30, 2014, for the Integrated Deepwater Systems program: Provided, That of the funds made available for the Integrated Deepwater Systems program, $305,500,000 is for aircraft and $734,680,000 is for surface ships: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2011 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Integrated Deepwater Systems program assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Integrated Deepwater Systems program; and the earned value management system gold card data for each Integrated Deepwater Systems program asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every 5 years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: Provided further, That subsections (a) and (b) of section 6402 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) shall apply to fiscal year 2010.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $4,000,000, to remain available until expended: Provided, That of the amounts made available under this heading, $4,000,000 shall be for the Fort Madison Bridge in Fort Madison, Iowa.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $29,745,000, to remain available until expended, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,361,245,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 652 vehicles for police-type use, of which 652 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,482,709,000; of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be for a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2011: Provided further, That

up to $1,000,000 for National Special Security Events shall remain available until expended: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: Provided further, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes: Provided further, That none of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided further, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis: Provided further, That the United States Secret Service shall open an international field office in Tallinn, Estonia to combat electronic crimes with funds made available under this heading in Public Law 110–329: Provided further, That $4,040,000 shall not be made available for obligation until enactment into law of authorizing legislation that incorporates the authorities of the United States Secret Service Uniformed Division into the United States Code, including restructuring the United States Secret Service Uniformed Division's pay chart.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,975,000, to remain available until expended.

TITLE III

PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

SALARIES AND EXPENSES

For salaries and expenses of the Office of the Under Secretary for the National Protection and Programs Directorate, support for operations, information technology, and the Office of Risk Management and Analysis, $44,577,000: Provided, That not to exceed $5,000 shall be for official reception and representation expenses.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $901,416,000, of which $760,755,000 shall remain available until September 30, 2011: Provided, That of the total amount provided, $20,000,000 is for necessary expenses of the National Infrastructure Simulation and Analysis Center.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $378,194,000, to remain available until expended: Provided, That of the total amount made available under this heading, $75,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security not later than 90 days after the date of enactment of this Act: Provided further, That not less than $28,000,000 of unobligated balances of prior year appropriations shall remain available and be obligated solely for implementation of a biometric air exit capability.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: Provided, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than December 31, 2009, that the operations of the Federal Protective Service will be fully funded in fiscal year 2010 through revenues and collection of security fees, and shall adjust the fees to ensure fee collections are sufficient to ensure that the Federal Protective Service maintains not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as ''in-service field staff'').

OFFICE OF HEALTH AFFAIRS

For necessary expenses of the Office of Health Affairs, $135,000,000, of which $30,411,000 is for salaries and expenses; and of which $104,589,000 is to remain available until September 30, 2011, for biosurveillance, BioWatch, medical readiness planning, chemical response, and other activities: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration of the Federal Emergency Management Agency, $859,700,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That the President's budget submitted under section 1105(a) of title 31, United States Code, shall be detailed by office for the Federal Emergency Management Agency: Provided further, That of the total amount made available under this heading, $32,500,000 shall be for the Urban Search and Rescue Response System, of which not to exceed $1,600,000 may be made available for administrative costs; and $6,995,000 shall be for the Office of National Capital Region Coordination: Provided further, That for purposes of planning, coordination, execution, and decision-making related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

STATE AND LOCAL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other activities, $3,067,200,000 shall be allocated as follows:

(1) $950,000,000 shall be for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605): Provided, That of the amount provided by this paragraph, $60,000,000 shall be for Operation Stonegarden.

(2) $887,000,000 shall be for the Urban Area Security Initiative under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604), of which, notwithstanding subsection (c)(1) of such section, $20,000,000 shall be for grants to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary of Homeland Security to be at high risk of a terrorist attack.

(3) $35,000,000 shall be for Regional Catastrophic Preparedness Grants.

(4) $40,000,000 shall be for the Metropolitan Medical Response System under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(5) $15,000,000 shall be for the Citizen Corps Program.

(6) $356,000,000 shall be for Public Transportation Security Assistance, Railroad Security Assistance, and Over-the-Road Bus Security Assistance under sections 1406, 1513, and 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163, and 1182), of which not less than $25,000,000 shall be for Amtrak security, and not less than $6,000,000 shall be for Over-the-Road Bus Security Assistance.

(7) $350,000,000 shall be for Port Security Grants in accordance with 46 U.S.C. 70107.

(8) $50,000,000 shall be for Buffer Zone Protection Program Grants.

(9) $50,000,000 shall be for Driver's License Security Grants Program, pursuant to section 204(a) of the REAL ID Act of 2005 (division B of Public Law 109–13).

(10) $50,000,000 shall be for the Interoperable Emergency Communications Grant Program under section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579).

(11) $20,000,000 shall be for grants for Emergency Operations Centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c), of which no less than $1,500,000 shall be for the Ohio Emergency Management Agency Emergency Operations Center, Columbus, Ohio; no less than $1,000,000 shall be for the City of Chicago Emergency Operations Center, Chicago, Illinois; no less than $600,000 shall be for the Ames Emergency Operations Center, Ames, Iowa; no less than $353,000 shall be for the County of Union Emergency Operations Center, Union County, New Jersey; no less than $300,000 shall be for the City of Hackensack Emergency Operations Center, Hackensack, New Jersey; no less than $247,000 shall be for the Township of South Orange Village Emergency Operations Center, South Orange, New Jersey; no less than $1,000,000 shall be for the City of Mount Vernon Emergency Operations Center, Mount Vernon, New York; no less than $900,000 shall be for the City of Whitefish Emergency Operations Center, Whitefish, Montana; no less than $1,000,000 shall be for the Lincoln County Emergency Operations Center, Lincoln County, Washington; no less than $980,000 shall be for the City of Providence Emergency Operations Center, Providence, Rhode Island; no less than $980,000 for the North Louisiana Regional Emergency Operations Center, Lincoln Parish, Louisiana; and no less than $900,000 for the City of North Little Rock Emergency Operations Center, North Little Rock, Arkansas.

(12) $264,200,000 shall be for training, exercises, technical assistance, and other programs, of which—

(A) $164,500,000 is for purposes of training in accordance with section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1102), of which $62,500,000 shall be for the Center for Domestic Preparedness; $23,000,000 shall be for the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology; $23,000,000 shall be for the National Center for Biomedical Research and Training, Louisiana State University; $23,000,000 shall be for the National Emergency Response and Rescue Training Center, Texas A&M University; $23,000,000 shall be for the National Exercise, Test, and Training Center, Nevada Test Site; $5,000,000 shall be for the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and $5,000,000 shall be for the Natural Disaster Preparedness Training Center, University of Hawaii, Honolulu, Hawaii; and

(B) $1,700,000 shall be for the Center for Counterterrorism and Cyber Crime, Norwich University, Northfield, Vermont:

Provided, That 4.1 percent of the amounts provided under this heading shall be transferred to the Federal Emergency Management Agency ''Management and Administration'' account for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act: Provided further, That, notwithstanding section 2008(a)(11) of the Homeland Security Act of 2002 (6 U.S.C. 609(a)(11)), or any other provision of law, a grantee may use not more than 5 percent of the amount of a grant made available under this heading for expenses directly related to administration of the grant: Provided further, That for grants under paragraphs (1) through (5), the applications for grants shall be made available to eligible applicants not later than 25 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 90 days after the grant announcement, and that the Administrator of the Federal Emergency Management Agency shall act within 90 days after receipt of an application: Provided further, That for grants under paragraphs (6) through (10), the applications for grants shall be made available to eligible applicants not later than 30 days after the date of enactment of this Act, that eligible applicants shall submit applications within 45 days after the grant announcement, and that the Federal Emergency Management Agency shall act not later than 60 days after receipt of an application: Provided further, That for grants under paragraphs (1) and (2), the installation of communications towers is not considered construction of a building or other physical facility: Provided further, That grantees shall provide reports on their use of funds, as determined necessary by the Secretary: Provided further, That (a) the Center for Domestic Preparedness may provide training to emergency response providers from the Federal Government, foreign governments, or private entities, if the Center for Domestic Preparedness is reimbursed for the cost of such training, and any reimbursement under this subsection shall be credited to the account from which the expenditure being reimbursed was made and shall be available, without fiscal year limitation, for the purposes for which amounts in the account may be expended, (b) the head of the Center for Domestic Preparedness shall ensure that any training provided under (a) does not interfere with the primary mission of the Center to train State and local emergency response providers.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $800,000,000, of which $380,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $420,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a), to remain available until September 30, 2010: Provided, That 5 percent of the amount available under this heading shall be for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $350,000,000: Provided, That total administrative costs shall be 3 percent of the total amount appropriated under this heading.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2010, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2010, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $45,588,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,456,866,000, to remain available until expended: Provided, That the Federal Emergency Management Agency shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives detailing the use of the funds for disaster readiness and support within 60 days after the date of enactment of this Act: Provided further, That the Federal Emergency Management Agency shall provide a quarterly report detailing obligations against the expenditure plan and a justification for any changes in spending: Provided further, That not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that includes (1) a plan for the acquisition of alternative temporary housing units, and (2) procedures for expanding repair of existing multifamily rental housing units authorized under section 689i(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 776(a)), semi-permanent, or permanent housing options: Provided further, That of the total amount provided, $16,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: Provided further, That up to $50,000,000 may be transferred to Federal Emergency Management Agency ''Management and Administration'' for management and administration functions: Provided further, That the amount provided in the previous proviso shall not be available for transfer to ''Management and Administration'' until the Federal Emergency Management Agency submits an implementation plan to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Federal Emergency Management Agency shall submit the monthly ''Disaster Relief'' report, as specified in Public Law 110–161, to the Committees on Appropriations of the Senate and the House of Representatives, and include the amounts provided to each Federal agency for mission assignments: Provided further, That for any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department policies on—

(1) the detailed information required in supporting documentation for reimbursements; and

(2) the necessity for timeliness of agency billings.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $295,000 is for the cost of direct loans: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $220,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act (42 U.S.C. 4101(f)(2)), to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $159,469,000, which shall be derived from offsetting collections assessed and collected under section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)), which is available as follows: (1) not to exceed $52,149,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) no less than $107,320,000 for flood plain management and flood mapping, which shall remain available until September 30, 2011: Provided, That any additional fees collected pursuant to section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)) shall be credited as an offsetting collection to this account, to be available for flood plain management and flood mapping: Provided further, That in fiscal year 2010, no funds shall be available from the National Flood Insurance Fund under section 1310 of that Act (42 U.S.C. 4017) in excess of: (1) $85,000,000 for operating expenses; (2) $969,370,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $120,000,000, which shall remain available until expended for flood mitigation actions, of which $70,000,000 is for severe repetitive loss properties under section 1361A of the National Flood Insurance Act of

1968 (42 U.S.C. 4102a), of which $10,000,000 is for repetitive insurance claims properties under section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030), and of which $40,000,000 is for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) notwithstanding subparagraphs (B) and (C) of subsection (b)(3) and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) and notwithstanding subsection (a)(7) of section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017): Provided further, That amounts collected under section 102 of the Flood Disaster Protection Act of 1973 and section 1366(i) of the National Flood Insurance Act of 1968 shall be deposited in the National Flood Insurance Fund to supplement other amounts specified as available for section 1366 of the National Flood Insurance Act of 1968, notwithstanding 42 U.S.C. 4012a(f)(8), 4104c(i), and 4104d(b)(2)–(3): Provided further, That total administrative costs shall not exceed 4 percent of the total appropriation.

NATIONAL PREDISASTER MITIGATION FUND

For the predisaster mitigation grant program under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), $120,000,000, to remain available until expended: Provided, That the total administrative costs associated with such grants shall not exceed 3 percent of the total amount made available under this heading.

EMERGENCY FOOD AND SHELTER

To carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $175,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

TITLE IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $135,700,000, of which $5,000,000 is for the processing of military naturalization applications and $118,500,000 is for the E-Verify program to assist United States employers with maintaining a legal workforce: Provided, That of the amount provided for the E-Verify program, $10,000,000 is available until expended for E-Verify process and system enhancements: Provided further, That notwithstanding any other provision of law, funds available to United States Citizenship and Immigration Services may be used to acquire, operate, equip, dispose of and replace up to five vehicles, of which two are for replacement only, for areas where the Administrator of General Services does not provide vehicles for lease: Provided further, That the Director of United States Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles between the employees' residences and places of employment.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; the purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $244,356,000, of which up to $47,751,000 shall remain available until September 30, 2011, for materials and support costs of Federal law enforcement basic training; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note), as amended by Public Law 110–329 (122 Stat. 3677), is further amended by striking ''December 31, 2011'' and inserting ''December 31, 2012'': Provided further, That the Federal Law Enforcement Training Accreditation Board, including representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, shall lead the Federal law enforcement training accreditation process to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors: Provided further, That the Director of the Federal Law Enforcement Training Center shall schedule basic or advanced law enforcement training, or both, at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that such training facilities are operated at the highest capacity throughout the fiscal year.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $43,456,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $143,200,000: Provided, That not to exceed $10,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $851,729,000, to remain available until September 30, 2011: Provided, That not less than $20,865,000 shall be available for the Southeast Region Research Initiative at the Oak Ridge National Laboratory: Provided further, That not less than $3,000,000 shall be available for Distributed Environment for Critical Infrastructure Decisionmaking Exercises: Provided further, That not less than $12,000,000 is for construction expenses of the Pacific Northwest National Laboratory: Provided further, That not less than $2,000,000 shall be for the Cincinnati Urban Area partnership established through the Regional Technology Integration Initiative: Provided further, That not less than $36,312,000 shall be for the National Bio and Agro-defense Facility.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office as authorized by title XIX of the Homeland Security Act of 2002 (6 U.S.C. 591 et seq.) for management and administration of programs and activities, $37,500,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation, and operations, $326,537,000, to remain available until September 30, 2011.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $10,000,000, to remain available until September 30, 2011: Provided, That none of the funds appropriated under this heading in this Act or any other Act shall be obligated for full-scale procurement of Advanced Spectroscopic Portal monitors until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that a significant increase in operational effectiveness will be achieved: Provided further, That the Secretary shall submit separate and distinct certifications prior to the procurement of Advanced Spectroscopic Portal monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment: Provided further, That the Secretary shall continue to consult with the National Academy of Sciences before making such certifications: Provided further, That none of the funds appropriated under this heading shall be used for high-risk concurrent development and production of mutually dependent software and hardware.

TITLE V

GENERAL PROVISIONS

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act, may be merged with funds in the applicable established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program, project, or activity; (2) eliminates a program, project, office, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2010 Budget Appendix for the Department of Homeland Security, as modified by the explanatory statement accompanying this Act, unless the Committees on Appropriations of

the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees or proceeds available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances that imminently threaten the safety of human life or the protection of property.

SEC. 504. The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations as a permanent working capital fund for fiscal year 2010: Provided, That none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the Working Capital Fund, except for the activities and amounts allowed in the President's fiscal year 2010 budget: Provided further, That funds provided to the Working Capital Fund shall be available for obligation until expended to carry out the purposes of the Working Capital Fund: Provided further, That all departmental components shall be charged only for direct usage of each Working Capital Fund service: Provided further, That funds provided to the Working Capital Fund shall be used only for purposes consistent with the contributing component: Provided further, That such fund shall be paid in advance or reimbursed at rates which will return the full cost of each service: Provided further, That the Working Capital Fund shall be subject to the requirements of section 503 of this Act.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2010 from appropriations for salaries and expenses for fiscal year 2010 in this Act shall remain available through September 30, 2011, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of an Act authorizing intelligence activities for fiscal year 2010.

SEC. 507. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: Provided, That if the Secretary of Homeland Security determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued: Provided further, That no notification shall involve funds that are not available for obligation: Provided further, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account from which the funds are being drawn: Provided further, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives 5 full business days in advance of announcing publicly the intention of making an award under the State Homeland Security Grant Program; Urban Area Security Initiative; and the Regional Catastrophic Preparedness Grant Program.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for which a prospectus otherwise required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. Sections 519, 520, 528, and 531 of the Department of Homeland Security Appropriations Act, 2008 (division E of Public Law 110–161; 121 Stat. 2073, 2074) shall apply with respect to funds made available in this Act in the same manner as such sections applied to funds made available in that Act.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation of the Secure Flight program or any other follow-on or successor passenger screening program that: (1) utilizes or tests algorithms assigning risk to passengers whose names are not on Government watch lists; or (2) uses data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 513. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 514. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 515. (a) The Assistant Secretary of Homeland Security (Transportation Security Administration) shall work with air carriers and airports to ensure that the screening of cargo carried on passenger aircraft, as defined in section 44901(g)(5) of title 49, United States Code, increases incrementally each quarter until the requirement of section 44901(g)(2)(B) of title 49 are met.

(b) Not later than 45 days after the end of each quarter, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet the requirement of section 44901(g)(2)(B) of title 49, United States Code.

SEC. 516. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'', ''Administration'' and ''Transportation Security Support'' for fiscal years 2004, 2005, 2006, 2007, and 2008 that are recovered or deobligated shall be available only for the procurement or installation of explosives detection systems, for air cargo, baggage, and checkpoint screening systems, subject to notification: Provided, That quarterly reports shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives on any funds that are recovered or deobligated.

SEC. 517. Any funds appropriated to United States Coast Guard, ''Acquisition, Construction, and Improvements'' for fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC–B) program.

SEC. 518. (a)(1) Except as provided in paragraph (2), none of the funds provided in this or any other Act shall be available to commence or continue operations of the National Applications Office until—

(A) the Secretary certifies that: (i) National Applications Office programs comply with all existing laws, including all applicable privacy and civil liberties standards; and, (ii) that clear definitions of all proposed domains are established and are auditable;

(B) the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification; and

(C) the Secretary notifies the Committees of all funds to be expended on the National Applications Office pursuant to section 503 of this Act.

(2) Paragraph (1) shall not apply with respect to any use of funds for activities substantially similar to such activities conducted by the Department of the Interior as set forth in the 1975 charter for the Civil Applications Committee under the provisions of law codified at section 31 of title 43, United States Code.

(b) The Inspector General shall provide to the Committees on Appropriations of the Senate and the House of Representatives a classified report

on a quarterly basis containing a review of the data collected by the National Applications Office, including a description of the collection purposes and the legal authority under which the collection activities were authorized: Provided, That the report shall also include a listing of all data collection activities carried out on behalf of the National Applications Office by any component of the National Guard.

(c) None of the funds provided in this or any other Act shall be available to commence operations of the National Immigration Information Sharing Operation until the Secretary certifies that such program complies with all existing laws, including all applicable privacy and civil liberties standards, the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification, and the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives of all funds to be expended on the National Immigration Information Sharing Operation pursuant to section 503.

SEC. 519. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.

SEC. 520. Section 532(a) of Public Law 109–295 (120 Stat. 1384) is amended by striking ''2009'' and inserting ''2010''.

SEC. 521. The functions of the Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 522. (a) None of the funds provided by this or any other Act may be obligated for the development, testing, deployment, or operation of any portion of a human resources management system authorized by 5 U.S.C. 9701(a), or by regulations prescribed pursuant to such section, for an employee as defined in 5 U.S.C. 7103(a)(2).

(b) The Secretary of Homeland Security shall collaborate with employee representatives in the manner prescribed in 5 U.S.C. 9701(e), in the planning, testing, and development of any portion of a human resources management system that is developed, tested, or deployed for persons excluded from the definition of employee as that term is defined in 5 U.S.C. 7103(a)(2).

SEC. 523. None of the funds made available in this or any other Act may be used to enforce section 4025(1) of Public Law 108–458 unless the Assistant Secretary of Homeland Security (Transportation Security Administration) reverses the determination of July 19, 2007, that butane lighters are not a significant threat to civil aviation security.

SEC. 524. Funds made available in this Act may be used to alter operations within the Civil Engineering Program of the Coast Guard nationwide, including civil engineering units, facilities design and construction centers, maintenance and logistics commands, and the Coast Guard Academy, except that none of the funds provided in this Act may be used to reduce operations within any Civil Engineering Unit unless specifically authorized by a statute enacted after the date of the enactment of this Act.

SEC. 525. (a) Except as provided in subsection (b), none of the funds appropriated in this or any other Act to the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, or the Office of the Chief Financial Officer, may be obligated for a grant or contract funded under such headings by a means other than full and open competition.

(b) Subsection (a) does not apply to obligation of funds for a contract awarded—

(1) by a means that is required by a Federal statute, including obligation for a purchase made under a mandated preferential program, such as the AbilityOne Program, that is authorized under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(2) under the Small Business Act (15 U.S.C. 631 et seq.);

(3) in an amount less than the simplified acquisition threshold described under section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)); or

(4) by another Federal agency using funds provided through an interagency agreement.

(c)(1) Subject to paragraph (2), the Secretary of Homeland Security may waive the application of this section for the award of a contract in the interest of national security or if failure to do so would pose a substantial risk to human health or welfare.

(2) Not later than 5 days after the date on which the Secretary of Homeland Security issues a waiver under this subsection, the Secretary shall submit notification of that waiver to the Committees on Appropriations of the Senate and the House of Representatives, including a description of the applicable contract and an explanation of why the waiver authority was used. The Secretary may not delegate the authority to grant such a waiver.

(d) In addition to the requirements established by this section, the Inspector General for the Department of Homeland Security shall review departmental contracts awarded through other than full and open competition to assess departmental compliance with applicable laws and regulations: Provided, That the Inspector General shall review selected contracts awarded in the previous fiscal year through other than full and open competition: Provided further, That in determining which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: Provided further, That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives no later than February 5, 2010.

SEC. 526. None of the funds made available in this Act may be used by United States Citizenship and Immigration Services to grant an immigration benefit unless the results of background checks required by law to be completed prior to the granting of the benefit have been received by United States Citizenship and Immigration Services, and the results do not preclude the granting of the benefit.

SEC. 527. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 528. None of the funds provided in this Act shall be available to carry out section 872 of Public Law 107–296.

SEC. 529. None of the funds provided in this Act under the heading ''Office of the Chief Information Officer'' shall be used for data center development other than for Data Center One (National Center for Critical Information Processing and Storage) until the Chief Information Officer certifies that Data Center One (National Center for Critical Information Processing and Storage) is fully utilized as the Department's primary data storage center at the highest capacity throughout the fiscal year.

SEC. 530. None of the funds in this Act shall be used to reduce the United States Coast Guard's Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 531. None of the funds appropriated by this Act may be used to conduct, or to implement the results of, a competition under Office of Management and Budget Circular A–76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

SEC. 532. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 533. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 534. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: Provided, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: Provided further, That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 535. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Fed. Reg. 3984 (January 27, 2005).

SEC. 536. Section 537 of the Department of Homeland Security Appropriations Act, 2009 (division D of Public Law 110–329; 122 Stat. 3682) shall apply with respect to funds made available in this Act in the same manner as such sections applied to funds made available in that Act.

SEC. 537. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

SEC. 538. (a) Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency; and

(2) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 539. Notwithstanding any other provision of law, should the Secretary of Homeland Security determine that the National Bio and Agro-defense Facility be located at a site other than Plum Island, New York, the Secretary shall have the Administrator of General Services sell through public sale all real and related personal property and transportation assets which support Plum Island operations, subject to such terms and conditions as necessary to protect government interests and meet program requirements: Provided, That the gross proceeds of such sale shall be deposited as offsetting collections into the Department of Homeland Security Science and Technology ''Research, Development, Acquisition, and Operations'' account and, subject to appropriation, shall be available until expended, for site acquisition, construction, and costs related to the construction of the National Bio and Agro-defense Facility, including the costs associated with the sale, including due diligence requirements, necessary environmental remediation at Plum Island, and reimbursement of expenses incurred by the General Services Administration which shall not exceed 1 percent of the sale price or $5,000,000, whichever is greater: Provided further, That after the completion of construction and environmental remediation, the unexpended balances of funds appropriated for costs in the preceding proviso shall be available for transfer to the appropriate account for design and construction of a consolidated Department of Homeland Security Headquarters project, excluding daily operations and maintenance costs, notwithstanding section 503 of this Act, and the Committees on Appropriations of the Senate and the House of Representatives shall be notified 15 days prior to such transfer.

SEC. 540. Any official that is required by this Act to report or certify to the Committees on Appropriations of the Senate and the House of Representatives may not delegate such authority to perform that act unless specifically authorized herein.

SEC. 541. The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall notify the Committees on Appropriations of the Senate and the House of Representatives of any proposed transfers of funds available under 31 U.S.C. 9703.2(g)(4)(B) from the Department of the Treasury Forfeiture Fund to any agency within the Department of Homeland Security.

SEC. 542. (a) Not later than 3 months from the date of enactment of this Act, the Secretary of Homeland Security shall consult with the Secretaries of Defense and Transportation and develop a concept of operations for unmanned aerial systems in the United States national airspace system for the purposes of border and maritime security operations.

(b) The Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives not later than 30 days after the date of enactment of this Act on any foreseeable challenges to complying with subsection (a).

SEC. 543. If the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that an airport does not need to participate in the basic pilot program, the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no security risks will result by such non-participation.

SEC. 544. For fiscal year 2010 and thereafter, the Secretary may provide to personnel appointed or assigned to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1990 (22 U.S.C. 4081 et seq.).

SEC. 545. Section 144 of the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329; 122 Stat. 3581), as amended by section 101 of division J of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 988), is further amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

SEC. 546. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''Unless'' and all that follows.

SEC. 547. The head of each agency or department of the United States that enters into a contract shall require, as a condition of the contract, that the contractor participate in the pilot program described in 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–209; 8 U.S.C. 1324a note) to verify the employment eligibility of—

(1) all individuals hired during the term of the contract by the contractor to perform employment duties within the United States; and

(2) all individuals assigned by the contractor to perform work within the United States the under such contract.

SEC. 548. (a)(1) Sections 401(c)(1), 403(a), 403(b)(1), 403(c)(1), and 405(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are amended by striking ''basic pilot program'' each place that term appears and inserting ''E-Verify Program''.

(2) The heading of section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking ''BASIC PILOT'' and inserting ''E-VERIFY''.

(b) Section 404(h)(1) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''under a pilot program'' and inserting ''under this subtitle''.

SEC. 549. Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended—

(1) by striking ''pilot'' each place it appears; and

(2) in subsection (b), by striking ''for 15 years''.

SEC. 550. Notwithstanding any other provision of law, should the Secretary of Homeland Security determine that specific U.S. Immigration and Customs Enforcement Service Processing Centers, or other U.S. Immigration and Customs Enforcement owned detention facilities, no longer meet the mission need, the Secretary is authorized to dispose of individual Service Processing Centers, or other U.S. Immigration and Customs Enforcement owned detention facilities, by directing the Administrator of General Services to sell all real and related personal property which support Service Processing Centers, or other U.S. Immigration and Customs Enforcement owned detention facilities, operations, subject to such terms and conditions as necessary to protect government interests and meet program requirements: Provided, That the proceeds, net of the costs of sale incurred by the General Services Administration and U.S. Immigration and Customs Enforcement shall be deposited as offsetting collections into a separate account that shall be available, subject to appropriation, until expended for other real property capital asset needs of existing U.S. Immigration and Customs Enforcement assets, excluding daily operations and maintenance costs, as the Secretary deems appropriate.

SEC. 551. Section 550 of Public Law 109–295 is amended in subsection (b) by deleting from the last proviso ''three years after the date of enactment of this Act'' and inserting in lieu thereof ''October 4, 2010''.

SEC. 552. For fiscal year 2010 and thereafter, the Secretary of Homeland Security may collect fees from any non-Federal participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Homeland Security in advance of the conference, either directly or by contract, and those fees shall be credited to the appropriation or account from which the costs of the conference, seminar, exhibition, symposium, or similar meeting are paid and shall be available to pay the costs of the Department of Homeland Security with respect to the conference or to reimburse the Department for costs incurred with respect to the conference: Provided, That in the event the total amount of fees collected with respect to a conference exceeds the actual costs of the Department of Homeland Security with respect to the conference, the amount of such excess shall be deposited into the Treasury as miscellaneous receipts: Provided further, That the Secretary shall provide a report to the Committees on Appropriations of the Senate and the House of Representatives not later than January 5, 2011, providing the level of collections and a summary by agency of the purposes and levels of expenditures for the prior fiscal year, and shall report annually thereafter.

SEC. 553. For purposes of section 210C of the Homeland Security Act of 2002 (6 U.S.C. 124j) a rural area shall also include any area that is located in a metropolitan statistical area and a county, borough, parish, or area under the jurisdiction of an Indian tribe with a population of not more than 50,000.

SEC. 554. From the unobligated balances of prior year appropriations made available for ''Analysis and Operations'', $5,000,000 are rescinded.

SEC. 555. From the unobligated balances of prior year appropriations made available for U.S. Immigration and Customs Enforcement ''Construction'', $7,000,000 are rescinded.

SEC. 556. From the unobligated balances of prior year appropriations made available for National Protection and Programs Directorate ''Infrastructure Protection and Information Security'', $8,000,000 are rescinded.

SEC. 557. From the unobligated balances of prior year appropriations made available for Science and Technology ''Research, Development, Acquisition, and Operations'', $7,500,000 are rescinded.

SEC. 558. From the unobligated balances of prior year appropriations made available for Domestic Nuclear Detection Office ''Research, Development, and Operations'', $8,000,000 are rescinded.

SEC. 559. (a) Subject to subsection (b), none of the funds appropriated or otherwise made available by this Act may be available to operate the Loran-C signal after January 4, 2010.

(b) The limitation in subsection (a) shall take effect only if the Commandant of the Coast Guard certifies that—

(1) the termination of the operation of the Loran-C signal as of the date specified in subsection (a) will not adversely impact the safety of maritime navigation; and

(2) the Loran-C system infrastructure is not needed as a backup to the Global Positioning System or any other Federal navigation requirement.

(c) If the Commandant makes the certification described in subsection (b), the Coast Guard shall, commencing January 4, 2010, terminate the operation of the Loran-C signal and commence a phased decommissioning of the Loran-C system infrastructure.

(d) Not later than 30 days after such certification pursuant to subsection (b), the Commandant shall submit to the Committees on Appropriations of the Senate and House of Representatives a report setting forth a proposed schedule for the phased decommissioning of the Loran-C system infrastructure in the event of the decommissioning of such infrastructure in accordance to subsection (c).

(e) If the Commandant makes the certification described in subsection (b), the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, may, notwithstanding any other provision of law, sell any real and personal property under the administrative control of the Coast Guard and used for the Loran system, by directing the Administrator of General Services to sell such real and

personal property, subject to such terms and conditions that the Secretary believes to be necessary to protect government interests and program requirements of the Coast Guard: Provided, That the proceeds, less the costs of sale incurred by the General Services Administration, shall be deposited as offsetting collections into the Coast Guard ''Environmental Compliance and Restoration'' account and, subject to appropriation, shall be available until expended for environmental compliance and restoration purposes associated with the Loran system, for the demolition of improvements on such real property, and for the costs associated with the sale of such real and personal property, including due diligence requirements, necessary environmental remediation, and reimbursement of expenses incurred by the General Services Administration: Provided further, That after the completion of such activities, the unexpended balances shall be available for any other environmental compliance and restoration activities of the Coast Guard.

BORDER FENCE COMPLETION

SEC. 560. (a) MINIMUM REQUIREMENTS.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subparagraph (A), by adding at the end the following: ''Fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under this subparagraph.'';

(2) in subparagraph (B)—

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

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

(C) by adding at the end the following:

''(iii) FUNDING NOT CONTINGENT ON CONSULTATION.—Amounts appropriated to carry out this paragraph may not be impounded or otherwise withheld for failure to fully comply with the consultation requirement under clause (i).''.

(b) REPORT.—Not later than September 30, 2009, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the progress made in completing the reinforced fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by this Act; and

(2) the plans for completing such fencing before December 31, 2010.

SEC. 561. None of the amounts made available under this Act may be used to implement changes to the final rule describing the process for employers to follow after receiving a ''no match'' letter in order to qualify for ''safe harbor'' status (promulgated on August 15, 2007).

SEC. 562. None of the funds made available under this Act may be obligated for the construction of the National Bio and Agro-defense Facility on the United States mainland until 90 days after the later of—

(1) the date on which the Secretary of Homeland Security completes a site-specific bio-safety and bio-security mitigation assessment to determine the requirements necessary to ensure safe operation of the National Bio and Agro-defense Facility at the preferred site identified in the January 16, 2009, Record of Decision published in Federal Register Vol. 74, Number 111; or

(2) the date on which the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, submits to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that—

(A) describes the procedure that will be used to issue the permit to conduct foot-and-mouth disease live virus research under section 7524 of the Food, Conservation, and Energy Act of 2008 (21 U.S.C. 113a note; Public Law 110–246); and

(B) includes plans to establish an emergency response plan with city, regional, and State officials in the event of an accidental release of foot-and-mouth disease or another hazardous pathogen.

SEC. 563. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General and the Administrative Office of the United States Courts, shall submit a report to the congressional committees set forth in subsection (b) that provides details about—

(1) additional Border Patrol sectors that should be utilizing Operation Streamline programs; and

(2) resources needed from the Department of Homeland Security, the Department of Justice, and the Judiciary, to increase the effectiveness of Operation Streamline programs at some Border Patrol sectors and to utilize such programs at additional sectors.

(b) The congressional committees set forth in this subsection are—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives;

(4) the Committee on the Judiciary of the House of Representatives; and

(5) the Committee on Homeland Security and Governmental Affairs of the Senate.

MARITIME TRANSPORTATION SECURITY INFORMATION

SEC. 564. (a) SHORT TITLE.—This section may be cited as the ''American Communities' Right to Public Information Act''.

(b) IN GENERAL.—Section 70103(d) of title 46, United States Code, is amended to read as follows:

''(d) NONDISCLOSURE OF INFORMATION.—

''(1) IN GENERAL.—Information developed under this chapter is not required to be disclosed to the public, including—

''(A) facility security plans, vessel security plans, and port vulnerability assessments; and

''(B) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

''(2) LIMITATIONS.—Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 114(r) of title 49, United States Code, is amended by adding at the end thereof the following:

''(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

(2) Section 40119(b) of title 49, United States Code, is amended by adding at the end thereof the following:

''(3) Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

DEFINITION OF SWITCHBLADE KNIVES

SEC. 565. Section 4 of the Act entitled ''An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes'' (commonly known as the Federal Switchblade Act) (15 U.S.C. 1244) is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; or'' and

(3) by adding at the end the following:

''(5) a knife that contains a spring, detent, or other mechanism designed to create a bias toward closure of the blade and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife.''.

FEDERAL DEPOSIT INSURANCE ACT TECHNICAL CORRECTION

SEC. 566. (a) APPLICABLE ANNUAL PERCENTAGE RATE OF INTEREST.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in the matter preceding subparagraph (A), by inserting ''(or in the case of a governmental entity located in such State, paid)'' after ''received, or reserved''; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking ''nondepository institution operating in such State'' and inserting ''governmental entity located in such State or any person that is not a depository institution described in subparagraph (A) doing business in such State'';

(B) by redesignating clause (ii) as clause (iii);

(C) in clause (i)—

(i) in subclause (III)—

(I) in item (aa), by adding ''and'' at the end;

(II) in item (bb), by striking '', to facilitate'' and all that follows through ''2009''; and

(III) by striking item (cc); and

(ii) by adding after subclause (III) the following:

''(IV) the uniform accessibility of bonds and obligations issued under the American Recovery and Reinvestment Act of 2009;''; and

(D) by inserting after clause (i) the following:

''(ii) to facilitate interstate commerce through the issuance of bonds and obligations under any provision of State law, including bonds and obligations for the purpose of economic development, education, and improvements to infrastructure; and''.

(b) EFFECTIVE PERIOD.—The amendments made by this section shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT

SEC. 567. (a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—(1) SHORT TITLE.—This subsection may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term ''covered record'' means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall issue a certification, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification under subparagraph (A) and a renewal of a certification under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is made.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may issue—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary's certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the ''OPEN FOIA Act of 2009''.

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

''(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

''(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.''.

SEC. 568. (a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the entities specified in subsection (c), submit to Congress a report on improving cross-border inspection processes in an effort to reduce the time to travel between locations in the United States and locations in Ontario and Quebec by intercity passenger rail.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an evaluation of potential cross-border inspection processes and methods including rolling inspections that comply with Department of Homeland Security requirements that would reduce the time to perform inspections on routes between locations in the United States and locations in Ontario and Quebec by intercity passenger rail;

(2) an assessment of the extent to which improving or expanding infrastructure and increasing staffing could increase the efficiency with which intercity rail passengers are inspected at border crossings without decreasing security;

(3) an updated evaluation of the potential for pre-clearance by the Department of Homeland Security of intercity rail passengers at locations along routes between locations in the United States and locations in Ontario and Quebec, including through the joint use of inspection facilities with the Canada Border Services Agency, based on the report required by section 1523 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 450);

(4) an estimate of the timeline for implementing the methods for reducing the time to perform inspections between locations in the United States and locations in Ontario and Quebec by intercity passenger rail based on the evaluations and assessments described in paragraphs (1), (2), and (3); and

(5) a description of how such evaluations and assessments would apply with respect to—

(A) all existing intercity passenger rail routes between locations in the United States and locations in Ontario and Quebec, including designated high-speed rail corridors;

(B) any intercity passenger rail routes between such locations that have been used over the past 20 years and on which cross-border passenger rail service does not exist as of the date of the enactment of this Act; and

(C) any potential future rail routes between such locations.

(c) ENTITIES SPECIFIED.—The entities to be consulted in the development of the report required by subsection (a) are—

(1) the Government of Canada, including the Canada Border Services Agency and Transport Canada and other agencies of the Government of Canada with responsibility for providing border services;

(2) the Provinces of Ontario and Quebec;

(3) the States of Maine, Massachusetts, New Hampshire, New York, and Vermont;

(4) the National Railroad Passenger Corporation; and

(5) the Federal Railroad Administration.

ADMINISTRATIVE LAW JUDGES

SEC. 569. The administrative law judge annuitants participating in the Senior Administrative Law Judge Program managed by the Director of the Office of Personnel Management under section 3323 of title 5, United States Code, shall be available on a temporary reemployment basis to conduct arbitrations of disputes as part of the arbitration panel established by the President under section 601 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 164).

PROPER DISPOSAL OF PERSONAL INFORMATION COLLECTED THROUGH THE REGISTERED TRAVELER PROGRAM

SEC. 570. (a) IN GENERAL.—Any company that collects or retains personal information directly from individuals who participated in the Registered Traveler program shall safeguard and dispose of such information in accordance with the requirements in—

(1) the National Institute for Standards and Technology Special Publication 800–30, entitled ''Risk Management Guide for Information Technology Systems''; and

(2) the National Institute for Standards and Technology Special Publication 800–53, Revision 3, entitled ''Recommended Security Controls for Federal Information Systems and Organizations,'';

(3) any supplemental standards established by the Assistant Secretary, Transportation Security Administration (referred to in this section as the ''Assistant Secretary'').

(b) CERTIFICATION.—The Assistant Secretary shall require any company through the sponsoring entity described in subsection (a) to provide, not later than 30 days after the date of the enactment of this Act, written certification to the sponsoring entity that such procedures are consistent with the minimum standards established under paragraph (a)(1–3) with a description of the procedures used to comply with such standards.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary shall submit a report to Congress that—

(1) describes the procedures that have been used to safeguard and dispose of personal information collected through the Registered Traveler program; and

(2) provides the status of the certification by any company described in subsection (a) that such procedures are consistent with the minimum standards established by paragraph (a)(1–3).

IMMIGRATION PROVISIONS

SEC. 571. (a) SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.—

(1) EXTENSION.—Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(27)(C)(ii)), as amended by section 2(a) of the Special Immigrant Nonminister Religious Worker Program Act (Public Law 110–391), is amended by striking ''September 30, 2009'' each place such term appears and inserting ''September 30, 2012''.

(2) STUDY AND PLAN.—Not later than the earlier of 90 days after the date of the enactment of this Act or March 30, 2010, the Director of United States Citizenship and Immigration Services shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes—

(A) the results of a study conducted under the supervision of the Director to evaluate the Special Immigrant Nonminister Religious Worker Program to identify the risks of fraud and noncompliance by program participants; and

(B) a detailed plan that describes the actions to be taken by the Department of Homeland Security against noncompliant program participants and future noncompliant program participants.

(3) PROGRESS REPORT.—Not later than the earlier of 90 days after the submission of the report under subsection (b) or June 30, 2010, the Director of United States Citizenship and Immigration Services shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress made in reducing the number of noncompliant participants of the Special Immigrant Nonminister Religious Worker Program.

(b) CONRAD STATE 30 J–1 VISA WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(c) RELIEF FOR SURVIVING SPOUSES.—

(1) IN GENERAL.—The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking ''for at least 2 years at the time of the citizen's death''.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to all applications and petitions relating to immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) pending on or after the date of the enactment of this Act.

(B) TRANSITION CASES.—

(i) IN GENERAL.—Notwithstanding any other provision of law, an alien described in clause (ii)

who seeks immediate relative status pursuant to the amendment made by paragraph (1) shall file a petition under section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(ii)) not later than the date that is 2 years after the date of the enactment of this Act.

(ii) ALIENS DESCRIBED.—An alien is described in this clause if—

(I) the alien's United States citizen spouse died before the date of the enactment of this Act;

(II) the alien and the citizen spouse were married for less than 2 years at the time of the citizen spouse's death; and

(III) the alien has not remarried.

(d) HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.—

(1) AMENDMENT.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(l) HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.—

''(1) IN GENERAL.—An alien described in paragraph (2) who was the beneficiary or derivative beneficiary of a petition (as defined in section 204, 207, or 208) filed on behalf of the alien or principal beneficiary before the death of the qualifying relative and who continues to reside in the United States shall have such petition and any related or subsequent applications for adjustment of status to that of a person admitted for lawful permanent residence adjudicated as if the death had not occurred, unless the Secretary of Homeland Security determines, in the unreviewable discretion of the Secretary, that approval would not be in the public interest.

''(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who, immediately prior to the death of his or her qualifying relative, was—

''(A) an immediate relative (as described in section 201(b)(2)(A)(i));

''(B) a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(C) a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d));

''(D) a spouse or child of a refugee (as described in section 207(c)(2)); or

''(E) an asylee (as described in section 208(b)(3)).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) may be construed to limit or waive any ground of removal, basis for denial of petition or application, or other criteria for adjudicating petitions or applications as otherwise provided under the immigration laws of the United States other than ineligibility based solely on the lack of a qualifying family relationship as specifically provided by such amendment.

SEC. 572. (a) The amount appropriated under the heading ''Firefighter Assistance Grants'' under the heading ''Federal Emergency Management Agency'' under by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 is increased by $10,000,000 for necessary expenses to carry out the programs authorized under section 33 of that Act (15 U.S.C. 2229).

(b) The total amount of appropriations under the heading ''Aviation Security'' under the heading ''Transportation Security Administration'' under title II, the amount for screening operations and the amount for explosives detection systems under the first proviso under that heading and the amount for the purchase and installation of explosives detection systems under the second proviso under that heading are reduced by $4,500,000.

(c) From the unobligated balances of amounts appropriated before the date of enactment of this Act for the appropriations account under the heading ''State and Local Programs'' under the heading ''Federal Emergency Management Agency'' for ''Trucking Industry Security Grants'', $5,500,000 are rescinded.

SEC. 573. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: Provided, That the prescription drug may not be—

PROPER AWARDING OF INCENTIVE FEES FOR CONTRACT PERFORMANCE

SEC. 574. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to pay award or incentive fees for contractor performance that has been judged to be below satisfactory performance or performance that does not meet the basic requirements of a contract.

SEC. 575. None of the funds appropriated or otherwise made available by this Act may be used by the Department of Homeland Security to enter into any federal contract unless such contract is entered into in accordance with the requirements of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or Chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

CHECKING THE IMMIGRATION STATUS OF EMPLOYEES

SEC. 576. Section 403(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1324a note) is amended—

(1) by striking ''The person'' and inserting the following:

''(i) UPON HIRING.—The person''; and

(2) by adding at the end the following:

''(ii) EXISTING EMPLOYEES.—An employer that elects to verify the employment eligibility of existing employees shall verify the employment eligibility of all such employees not later than 10 days after notifying the Secretary of Homeland Security of such election.''.

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2010''.

DIRECTING THE ARCHITECT OF THE CAPITOL TO ENGRAVE THE PLEDGE OF ALLEGIANCE TO THE FLAG AND THE NATIONAL MOTTO IN THE CAPITOL VISITOR CENTER

Mr. WYDEN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H. Con. Res. 131 at the desk and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 131) directing the Architect of the Capitol to engrave the Pledge of Allegiance to the Flag and the National Motto of ''In God We Trust'' in the Capitol Visitor Center.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WYDEN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 131) was agreed to.

DIRECTING THE ARCHITECT OF THE CAPITOL TO PLACE A MARKER IN EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 135 at the desk, just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 135) directing the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WYDEN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 135) was agreed to.

The preamble was agreed to.

JUVENILE SURVIVORS PROTECTION ACT OF 2009

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 88, S. 1107.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1107) to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivors' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes.

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

Mr. WYDEN. Mr. Presdient, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1107) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1107

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 ''Judicial Survivors Protection Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) The term ''judicial official'' refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(2) The term ''Judicial Survivors' Annuities Fund'' means the fund established under section 3 of the Judicial Survivors' Annuities Reform Act (28 U.S.C. 376 note; Public Law 94–554; 90 Stat. 2611).

(3) The term ''Judicial Survivors' Annuities System'' means the program established under section 376 of title 28, United States Code.

SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

(a) ELECTION OF JUDICIAL SURVIVORS' ANNUITIES SYSTEM COVERAGE.—An eligible judicial official may elect to participate in the Judicial Survivors' Annuities System during the open enrollment period specified in subsection (d).

(b) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the end of the open enrollment period.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period under this section is the 6-month period beginning 30 days after the date of enactment of this Act.

SEC. 4. JUDICIAL OFFICERS' CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.

(a) CONTRIBUTION RATE.—Every active judicial official who files a written notification of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of that salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a justice or judge of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Federal Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) CONTRIBUTIONS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Contributions made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

(a) LUMP SUM DEPOSIT.—Any judicial official who files a written notification of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent annual, compounded interest, for the last 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official's survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(b) DEPOSITS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Deposits made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS' ANNUITY.

Section 376 of title 28, United States Code, is amended by adding at the end the following:

''(y) For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors' Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors' Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.''.

SEC. 7. EFFECTIVE DATE.

This Act, including the amendment made by section 6, shall take effect on the date of enactment of this Act.

FOREIGN EVIDENCE REQUEST EFFICIENCY ACT OF 2009

Mr. WYDEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1289, and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (S. 1289) to improve title 18 of the United States Code.

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

Mr. WYDEN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1289) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1289

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 ''Foreign Evidence Request Efficiency Act of 2009''.

SEC. 2. IMPROVEMENTS TO TITLE 18.

Title 18 of the United States Code is amended—

(1) in section 2703—

(A) in subsection (a), by striking ''by a court with jurisdiction over the offense under investigation or an equivalent State warrant'' and inserting ''(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction'';

(B) in subsection (b)(1)(A), by striking ''by a court with jurisdiction over the offense under investigation or an equivalent State warrant'' and inserting ''(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction''; and

(C) in subsection (c)(1)(A), by striking ''by a court with jurisdiction over the offense under investigation or an equivalent State warrant'' and inserting ''(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction'';

(2) in section 2711(3), by striking ''has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation; and'' and inserting the following: ''includes—

''(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—

''(i) has jurisdiction over the offense being investigated;

''(ii) is in or for a district in which the provider of a wire or electronic communication service is located or in which the wire or electronic communications, records, or other information are stored; or

''(iii) is acting on a request for foreign assistance pursuant to section 3512 of this title; or

''(B) a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants; and'';

(3) in section 3127(2)(A), by striking ''having jurisdiction over the offense being investigated;'' and inserting the following: ''that—

''(i) has jurisdiction over the offense being investigated;

''(ii) is in or for a district in which the provider of a wire or electronic communication service is located;

''(iii) is in or for a district in which a landlord, custodian, or other person subject to subsections (a) or (b) of section 3124 of this title is located; or

''(iv) is acting on a request for foreign assistance pursuant to section 3512 of this title;'';

(4) in chapter 223, by adding at the end the following:

''§ 3512. Foreign requests for assistance in criminal investigations and prosecutions

''(a) EXECUTION OF REQUEST FOR ASSISTANCE.—

''(1) IN GENERAL.—Upon application, duly authorized by an appropriate official of the Department of Justice, of an attorney for the Government, a Federal judge may issue such orders as may be necessary to execute a request from a foreign authority for assistance in the investigation or prosecution of criminal offenses, or in proceedings related to the prosecution of criminal offenses, including proceedings regarding forfeiture, sentencing, and restitution.

''(2) SCOPE OF ORDERS.—Any order issued by a Federal judge pursuant to paragraph (1) may include the issuance of—

''(A) a search warrant, as provided under Rule 41 of the Federal Rules of Criminal Procedure;

''(B) a warrant or order for contents of stored wire or electronic communications or for records related thereto, as provided under section 2703 of this title;

''(C) an order for a pen register or trap and trace device as provided under section 3123 of this title; or

''(D) an order requiring the appearance of a person for the purpose of providing testimony or a statement, or requiring the production of documents or other things, or both.

''(b) APPOINTMENT OF PERSONS TO TAKE TESTIMONY OR STATEMENTS.—

''(1) IN GENERAL.—In response to an application for execution of a request from a foreign authority as described under subsection (a), a Federal judge may also issue an order appointing a person to direct the taking of testimony or statements or of the production of documents or other things, or both.

''(2) AUTHORITY OF APPOINTED PERSON.—Any person appointed under an order issued pursuant to paragraph (1) may—

''(A) issue orders requiring the appearance of a person, or the production of documents or other things, or both;

''(B) administer any necessary oath; and

''(C) take testimony or statements and receive documents or other things.

''(c) FILING OF REQUESTS.—Except as provided under subsection (d), an application for execution of a request from a foreign authority under this section may be filed—

''(1) in the district in which a person who may be required to appear resides or is located or in which the documents or things to be produced are located;

''(2) in cases in which the request seeks the appearance of persons or production of documents or things that may be located in multiple districts, in any one of the districts in which such a person, documents, or things may be located; or

''(3) in any case, the district in which a related Federal criminal investigation or prosecution is being conducted, or in the District of Columbia.

''(d) SEARCH WARRANT LIMITATION.—An application for execution of a request for a search warrant from a foreign authority under this section, other than an application for a warrant issued as provided under section 2703 of this title, shall be filed in the district in which the place or person to be searched is located.

''(e) SEARCH WARRANT STANDARD.—A Federal judge may issue a search warrant under this section only if the foreign offense for which the evidence is sought involves conduct that, if committed in the United States, would be considered an offense punishable by imprisonment for more than one year under Federal or State law.

''(f) SERVICE OF ORDER OR WARRANT.—Except as provided under subsection (d), an order or warrant issued pursuant to this section may be served or executed in any place in the United States.

''(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude any foreign authority or an interested person from obtaining assistance in a criminal investigation or prosecution pursuant to section 1782 of title 28, United States Code.

''(h) DEFINITIONS.—As used in this section, the following definitions shall apply:

''(1) FEDERAL JUDGE.—The terms 'Federal judge' and 'attorney for the Government' have the meaning given such terms for the purposes of the Federal Rules of Criminal Procedure.

''(2) FOREIGN AUTHORITY.—The term 'foreign authority' means a foreign judicial authority, a foreign authority responsible for the investigation or prosecution of criminal offenses or for proceedings related to the prosecution of criminal offenses, or an authority designated as a competent authority or central authority for the purpose of making requests for assistance pursuant to an agreement or treaty with the United States regarding assistance in criminal matters.''; and

(5) in the table of sections for chapter 223, by adding at the end the following:

''3512. Foreign requests for assistance in criminal investigations and prosecutions.''.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendars Nos. 195, 196, 261, 262, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, and 279; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order, that any statements relating thereto be printed in the RECORD, the President of the United States be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Peter Silva Silva, of California, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF TRANSPORTATION

Victor M. Mendez, of Arizona, to be Administrator of the Federal Highway Administration.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Raphael William Bostic, of California, to be an Assistant Secretary of Housing and Urban Development.

David H. Stevens, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF STATE

Christopher William Dell, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kosovo.

Charles H. Rivkin, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Monaco.

Louis B. Susman, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

Laurie Susan Fulton, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Timothy J. Roemer, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Gordon Gray, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

Richard J. Schmierer, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

Mark Henry Gitenstein, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

DEPARTMENT OF LABOR

Phyllis Corrine Borzi, of Maryland, to be an Assistant Secretary of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Nicole Lurie, of Maryland, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Assistant Secretary for Preparedness and Response, Department of Health and Human Services.

DEPARMENT OF DEFENSE

Gordon S. Heddell, of the District of Columbia, to be Inspector General, Department of Defense.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

ORDERS FOR MONDAY, JULY 13, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m. on Monday, July 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to the consideration of Calendar No. 89, S. 1390, the Department of Defense Authorization bill, as provided for under the previous order.

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

PROGRAM

Mr. REID. On Monday, the Senate will begin consideration of the Defense authorization bill. I expect next week to be a busy week as we work through amendments to this bill.

Under a previous order, at 4:30 p.m. on Monday, the Senate will turn to executive session to consider the nomination of Robert M. Groves to be Director of the Census. That vote will occur at 5:30.

As previously announced, there will be no rollcall votes after 2 p.m. on Tuesday, July 14.

ADJOURNMENT UNTIL 11 A.M., MONDAY, JULY 13, 2009

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 1:37 p.m., adjourned until Monday, July 13, 2009, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, July 10, 2009:

ENVIRONMENTAL PROTECTION AGENCY

PETER SILVA SILVA, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF TRANSPORTATION

VICTOR M. MENDEZ, OF ARIZONA, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION.

DEPARTMENT OF STATE

CHRISTOPHER WILLIAM DELL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOSOVO.

CHARLES H. RIVKIN, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONACO.

LOUIS B. SUSMAN, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

TIMOTHY J. ROEMER, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

GORDON GRAY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

RICHARD J. SCHMIERER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

MARK HENRY GITENSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

DEPARTMENT OF LABOR

PHYLLIS CORRINE BORZI, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NICOLE LURIE, OF MARYLAND, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF DEFENSE

GORDON S. HEDDELL, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RAPHAEL WILLIAM BOSTIC, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DAVID H. STEVENS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.