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No. 21

## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, February 22, 2010, at 2 p.m.

## Senate

THURSDAY, FEBRUARY 11, 2010

The Senate met at 2:30 p.m. and was called to order by the Honorable AL FRANKEN, a Senator from the State of Minnesota.

### PRAYER

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

Let us pray.

Eternal God, You are present with us in light and shadows. Keep our Senators responsive to Your light as they seek to please You in all they say and do. Lord, remind them that You are available to support and sustain them in all situations. Give them the ability to grasp sufficient truth to fulfill Your purposes on Earth and to glorify Your name. Fill them with Your power, transforming them into instruments of Your love and grace.

We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable AL FRANKEN led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 11, 2010.

### To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MINORITY LEADER

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

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum. I believe the majority leader may be on his way.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

### TRIBUTE TO KYLE SIMMONS

Mr. MCCONNELL. Mr. President, one of the most gratifying things about spending a good deal of time in the Senate, as I have, is the optimism that comes from seeing talent renew itself year after year. I have had the good fortune of having many talented staffers over the years, and the staff I have

now is an incredible group. But every one of them will tell you that when Kyle Simmons gets up from his tidy desk and walks out of his office this Friday, the office they return to on Monday will be a very different place.

It has been said that no one is indispensable, and that may be true. But few of us can imagine S-229 without Kyle Simmons in it. So it will take some adjusting. And part of that adjustment involves doing something this week that Kyle never did. We are going to speak well of him. We are going to talk about his many virtues. We are going to make him a little uncomfortable. Because every single person on my staff knows what it's like to be singled out for a good piece of work, or for going above and beyond the call of duty; everybody, that is, except our chief of staff. Now it is our turn.

The first thing to say about Kyle is that he is humble. And that is really saying something in this town. Most people in Washington look in the mirror in the morning and think they see a future President. Not Kyle. If he looks in the mirror at all in the morning, I would imagine that what he sees is the son of a Baptist minister who was blessed with a privilege he didn't seek and who has tried to earn that privilege every single day, regardless of how well he did the day before. As he used to tell his father, "Dad, I'm always just one mistake away from looking for a job."

He had a modest upbringing. But he excelled at everything. One day when Kyle was about 10 years old, he made his way over to the Tate's Creek public golf course and picked up a club. Soon

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



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enough, he was a better golfer than his dad. It was sign of things to come—a sign that for him, as for so many others in this country before and since, success would come not from who he knew or where he came from, but from hard work and the determination to succeed.

When Kyle showed up in Washington, he didn't have any connections. He didn't have an Ivy League degree. He didn't even have a job. All he had was some furniture he got from his grandfather, and a lot of talent. He got evicted from the first place he rented because the owner of the building wanted to tear the building down. As his old friend and roommate at the time put it, "We were just two country bumpkins in a crowd . . . We just wanted to pay our electric bills."

There were times, I am sure, when back home didn't look so bad. And after a series of jobs outside government and a brush with politics during the 1992 Presidential campaign, Kyle decided he had been in Washington long enough. And so he moved back home to Kentucky, but this time with enough experience under his belt to run a corporate communications shop in Louisville and that is just what he was doing when I first met him on an elevator at the old Seelbach Hotel.

I had just lost my press secretary, and we struck up a polite conversation—the second thing you notice about Kyle is that he is unfailingly polite—and then we pulled a Cheney on him. We asked him if he wouldn't mind coming up with a list of candidates for us, which he did with characteristic diligence. And when he had gone through his list, we asked him if maybe he would be interested in the job. Soon after that, he was sitting at a desk in the Russell Senate Office Building.

He was a quick study. Not even a year had passed before I knew that Kyle was the guy I wanted to manage my next campaign. I sent him down to the office I have always used out on Bishop Lane in Louisville, and he did a flawless job. In a year when Bill Clinton got reelected and carried Kentucky for the second time, Kyle got me reelected by 12 points. It was a landslide, a truly remarkable feat.

After that, he just went from success to success. After returning from Kentucky, I put him in charge of my office. It was one of the best decisions I ever made. Nothing rattled him, and he was always, always, thinking of the one thing that no one else had thought of.

Whether it was taking apart what I had thought to be a terrific idea and patiently explaining to me why it wasn't such a good idea, or mapping out a legislative or political strategy when everyone else was ready to take a break, he became the calm navigator in the middle of the storm—the one person in the office who never took his eye off the destination we had set. And when it came to smoking out some unforeseen problem or vetting some proposal for potential pitfalls, he was, and

is, quite simply, the best I have ever seen. It was a skill I always thought I was pretty good at. But Kyle was better. And it is impossible to overstate the value of that kind of mind in politics.

Many of the people who might be listening to me right now are probably asking themselves why they have never heard of this guy. That is no accident. Kyle was never in it for himself. I know as well as I know the sun's coming up tomorrow that through three Senate elections, two whip races, two leader races, and countless legislative efforts in between, that he never put his own interests ahead of my own. He was as loyal as he was effective. He has made me look better than I am for 15 years. And nearly everything I have accomplished over that time I owe, in large part, to him.

He always deflected attention. And if he was suspicious of anything, it was the glory seekers, the people who like to talk about themselves. It is something he just never did. He kept his own counsel and kept to himself. As his mother used to say, "Kyle can keep silent in 30 different languages."

But if you ever do get Kyle to talk about his accomplishments, he will probably tell you that his proudest professional achievement was finding a talented group of people in Washington, DC, who had the same attitude about the limelight and about empty praise that he does. He will tell you the thing he's proudest of is the staff he put together—and that he will soon leave behind.

But he was always the one who set the example.

On any given day over the past few years, any visitor to our office could be excused for wondering who the tall gentleman was out in the reception room asking one of our new staff assistants whether she'd found an apartment yet, and whether it was in a safe neighborhood.

"I'd never be able to look your parents in the eye if anything ever happened to you," he would say.

Anyone who had the privilege of sitting in one of our morning staff meetings could be excused for wondering who the guy was at the end of the table who seemed to know absolutely everything—from the legislative details to the fact that some of the Senate pages would be graduating later that day, that one of them was from Kentucky, that his dad had just died, and that our No. 1 priority in the office that day would be to make that young man feel like a million bucks.

Any visitor to our office could be excused for being astonished at seeing that same tall gentleman walk away from a room full of CEOs to focus on a staff issue or at seeing him sneak out during an important vote so he could get home just a little while to see his little girl before she went to bed.

Anyone would be amazed how he could manage such a high-pressure environment with such efficiency, focus,

and vision, without ever losing his sense of humor. He inspired confidence in the staff and he inspired loyalty.

Everything I ever asked him to do he did well, especially when he had every excuse not to. I asked him to manage a campaign, even though he had never managed a campaign before. I asked him to run my office, even though he had never run an office before. I asked him to put together a leadership staff, even though he had never done that before. He had never done any of these things, but he excelled at every one, and he never needed the praise. I assure you, that kind of person is in very short supply in Washington.

Someone once said, the best business in the world would be to buy someone for what they are worth and to sell them for what they think they are worth. It was never that way with Kyle. He was always worth more than he thought he was, and that is why he will succeed at whatever he chooses to do.

In the meantime, he leaves a legacy. I cannot tell you how many Senators have come up to me over the past week to tell me how much they will miss his counsel, his advice, and his steady hand. He has left a lot of himself in this place, and it is the better for it.

Above all, though, Kyle leaves his example. It is the example of someone who showed you could be committed to winning and gracious at the same time; that you could be intensely focused, without losing sight of the human beings around you. It is that combination of aggressiveness and caution, political savvy and humanity that anyone who has worked with Kyle has come to admire and will miss.

Now that he is leaving, I am just as confident our office will carry on as it always has because he leaves a fantastic team behind. That is because Kyle's solution to everything was to throw the smartest people in the room at the problem, to find the best talent but not just any talent. He only wanted people who would rather be on a team than on the style pages of the Washington Post—in other words, people like him: honest, intelligent, kind, straightforward people with humility, a deep commitment to excellence, and always a sense of humor.

You do not get those qualities in Washington. You bring them here. In Kyle's case, that means he brought them from a quiet street in Lexington, KY, and, more specifically, from the home of Bill and Barbie Simmons.

Anyone who ever spent any time at the Calvary Baptist Church, where Kyle's dad served as pastor, could tell you there was one thing Bill Simmons could always count on when he climbed into the pulpit, whether he was presiding over a Sunday service, a funeral, a wedding—you name it—Mrs. Simmons would always be out there, always sitting in the same spot. She was always there as a point of reference, as a point of comfort for her husband. When I think of what Kyle has meant

to me over the past 15 years, I cannot help but think that is exactly what he has been to me. He has been that steady presence in the midst of it all. As long as he was there, the team was confident things would turn out well, and they always did.

To me, he has been more than a staffer. He has been a colleague, a confidant, and a dear friend.

Kyle once summed up his approach to the job, and I would like to share it because every Senator should be so fortunate as to have a chief of staff who would write such a thing. It is from a letter he left on the chair of my other chief of staff, Billy Piper, the day Billy took Kyle's job in the personal office 7 years ago.

After a brief introduction, here is what Kyle wrote:

Billy . . . while you sit here you are no longer simply Billy Piper. You are Billy Piper, Senator Mitch McConnell's chief of staff. Carry the privileges and responsibilities just as you have throughout your outstanding career—with humility and honor. . . .

Kyle went on:

. . . it's a constant struggle while balancing the demands on your time to remember your audience: the people of Kentucky, the staff who looks to you for leadership, and Senator McConnell. . . . We're only here for a short period of time—and few of us have made it to where you now sit. Do us proud.

He was honored to serve the Senate and his country. Yet, at the end of that service, he knew he had a more important job still. It was the job of husband and father. That is why, to paraphrase Macbeth, nothing became Kyle's service to the Senate more than the leaving of it. His first love was and is his dear wife Carrie and their beautiful daughter Ava and the Senate could not compete with that—as much as it tried to, especially these last few months.

So he has made the right decision, as he usually does. But that does not change the fact that he leaves behind an office and a boss who will miss him terribly.

Kyle, thank you so very much.

#### RECOGNITION OF THE MAJORITY LEADER

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

#### TRIBUTE TO KYLE SIMMONS

Mr. REID. Mr. President, there is nothing I can say to assuage the anguish that my friend, the Republican leader, MITCH MCCONNELL, now feels. It is a unique relationship that comes with our staff members, especially someone who has been with us as many years as Kyle has been with Leader McConnell. These people become part of us. As we can see, Kyle Simmons has become part of MITCH MCCONNELL.

My dealings with Kyle Simmons are meetings that are held in my office or in Senator McConnell's office, and if

there were a way to describe my dealings with Kyle Simmons, it would be to go to the dictionary, under the Hs, and go to the word "humility," and there would be Kyle Simmons. He is just as MITCH MCCONNELL described him. He is a man who has loads of humility. He does not talk very often. But whenever he talks, we listen.

So I wish you the very best, Kyle, in the things you do, and I recognize that your boss, MITCH MCCONNELL, was speaking for the entire Senate in our relationships with our staff. But, of course, even though there are many relationships with our staff, I think the relationship between Senator MITCH MCCONNELL and Kyle Simmons, as we can see, is very unique.

The best of luck to you, Kyle.

#### SCHEDULE

Mr. REID. Mr. President, following the leader remarks of Senator McConnell and myself, the Senate will proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each. We are going to lay down our jobs bill today so we can begin its consideration when we return after the recess. There is no question the snow has interfered with our work. It would be nice if we could say: OK, then, we are just going to move on next week and pretend next week was this week, but as I told somebody outside before I came in here, when we leave Washington, we do not go home to relax and take it easy. We have constituencies in the State of Minnesota, the State of Kentucky, the State of Illinois, the State of Nevada. We have to take care of it. We have appointments and things we have to do, and we schedule them long ahead of time.

So we are going to come back after the Presidents Day recess energized and make up for this snow day, snow week, and do the very best we can. The jobs bill we are moving forward on is not as big as the one in different elements of the legislation, but it is one that is extremely important. It is going to deal with jobs, jobs, jobs, jobs—four times—because all four elements of our jobs bill will deal with creating jobs immediately, as the Congressional Budget Office said, creating jobs immediately.

#### HEALTH CARE

Mr. REID. Mr. President, I do wish to comment about the health care debate. One Republican Senator said during this debate what we need is to "get out of the way and allow the market to work." Well, we had an example of it working pretty well for the insurance industry a couple days ago. In fact, a large insurance company in California, insuring almost 1 million people, individuals, decided they would raise their rates this year 39 percent—1 year. I think it is fair to say it is a little above inflation.

Well, when someone talks about getting out of the way and let the market

work, they are talking about doing nothing. That is what it means. "Allowing the market to work" is a code word for letting greedy insurance companies—companies that care more about profits than people—get richer while people who can already barely afford their coverage lose their coverage altogether.

Cover this with the fact that these insurance companies—and this insurance company—are not subject to any antitrust laws. The only business in America not subject to antitrust laws other than Major League Baseball is the insurance industry. So one is raising its rates by 39 percent. That is many times more than the rate of inflation. And, it is reserving the right to raise them again whenever they feel like it. Instead of just once a year, they can raise it more than once a year if they want to. They can do whatever they want, and they do pretty much whatever they want.

What does this mean? It means people will not be able to afford coverage at all in many instances. It means more people will be living one accident, one illness, one injury away from a pink slip or losing everything.

It goes without saying, in the year 2008, 750,000 bankruptcies were filed in America. Eighty percent of those bankruptcies were because of health care costs, and almost 70 percent of those people who filed because of health care costs had health insurance.

A lot of companies are hurting in this economy. But this California health care company is not one of them. Last year, its parent company raked in eight times what it made in the same quarter the year before. What is this all about?

It is not the first time we have seen this happen. Just 2 months ago, another exceedingly profitable insurance company raised its rates with the full knowledge it would mean 650,000 people would not be able to afford the coverage.

That is as many people who are in some of our States.

That is what happens when we allow the health insurance market to work the way it does. That is what happens when we sit back and wait for insurance company executives to act out of the goodness of their hearts instead of acting in the interests of their wallets. That is why we need health reform like the bills already passed in the House and in the Senate that will rein in insurance company abuses and make coverage more affordable for millions of Americans and provide coverage for some 30 million who have no health insurance.

Health care costs take up a larger slice of our economy than ever before, and it is not slowing down. In less than a decade, it is going to be \$1 of every \$5 we spend. In less than a decade, half of a family's income will be spent on health care premiums.

It doesn't have to be that way. Californians don't have to be priced out of

a healthy life. We don't have to let greedy health insurance executives drag down our future, but that is what they are doing and have done.

I, once again, urge Republicans to work with us in good faith to fix our broken system. The President has reached out: Come on down. Tell us what plans you have. I encourage those Republicans to listen to the American people, two-thirds of whom said last week they want Congress to finish the job we started with health care reform. I encourage every Senator to condemn this insurance company's greed. If they are not willing to do so, perhaps they would be willing to call the Californians who can no longer afford coverage and explain why corporate profits are more important than their health.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

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

The Senator from Illinois is recognized.

#### ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I wish to make a unanimous consent request: that on the Democratic side, the sequence be Senator KAUFMAN of Delaware, Senator HARKIN from Iowa, and then that I be third in line; and then if there are any Republicans who come to the floor seeking recognition, that they be taken in sequence so that there will be a Democrat speaker followed by a Republican speaker.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Iowa.

Mr. HARKIN. Mr. President, reserving the right to object, if I might ask my friend from Illinois that the order be changed a little to allow Senator KAUFMAN to go first, and then the Senator from Illinois go second, and then I will be glad to go third, if this would be OK with the Senator.

Mr. DURBIN. Sure.

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

The Senator from Delaware is recognized.

#### CHIEFS OF STAFF

Mr. KAUFMAN. Mr. President, I am going to speak today once more on my weekly tribute to great Federal employees. Before I begin, I wish to say that I was quite moved by the Republican leader's speech today about Kyle

Simmons. I don't know Kyle Simmons, but I must say that over the 19 years I was a chief of staff and for over a year that I have been a Senator, I recognize Kyle Simmons and so many good chiefs of staff I have known over the years.

The way the Republican leader described Kyle Simmons just brought back so many memories of great people in the Senate, but especially chiefs of staff who do everything in the office from opening the door in the morning to closing it at night, to worrying about everything from the interns to the CEOs of corporations in their home States, and labor leaders.

So I wish to add my voice to say I am so proud of folks who have worked in the Senate and especially, because of personal experience, those who have been chiefs of staff. I cannot speak of a better letter than the one that was written from Kyle Simmons to Billy Piper to explain what it is to be a great Senate staffer and a great chief of staff.

#### IN PRAISE OF TERRENCE LUTES

Mr. KAUFMAN. Now I wish to speak about another great Federal employee.

Across the country, Americans are receiving their W-2 forms and taking stock of their finances in advance of April's tax filing deadline. For families, the ritual of filing income taxes repeats itself each year, and, admittedly, it isn't very much fun.

Taxes have been an emotional and thorny subject in American history ever since colonial patriots rallied around the cry of "No Taxation Without Representation." Indeed, though federal tax rates for personal income are low compared to most other developed countries, complaining about paying taxes remains one of our national pastimes.

This is understandable. It is linked to the strong national attitude in our country that taxpayers' money should never go to waste. When Americans grumble about taxes, I believe it is not because they oppose them in general; rather, it is because they want to make sure that their money is spent wisely, fairly, and without unnecessary waste.

One of the chief complaints about taxes in years past was that filing was a time-consuming and confusing process. Many can remember those days sitting in front of a pile of forms and receipts, punching away at a calculator, pencil in hand, and a 1040-form covered in eraser marks.

Thankfully, because of this week's honoree, most Americans—more than 95 million filers—avoided this headache last year by filing their taxes electronically.

Terrence Lutes was awarded the 2005 Service to America Medal for Citizen Services for leading the development of the Internal Revenue Service's e-File program.

Terry, who spent nearly 30 years working at the IRS, served as associate chief information officer for IT Services before retiring five years ago.

E-File not only makes it easy for taxpayers to file online and receive a refund in as little as ten days; it also cuts processing costs by 90 percent compared to paper filing. This benefits the taxpayers two-fold. They save time and energy individually and reduce the amount of their own money spent collecting their taxes.

Terry, who holds degrees from Eastern Kentucky University and the University of Colorado, first became involved with electronic filing in 1996. As the head of the IRS's Electronic Tax Administration, he became the government's evangelist for online tax filing. E-File had been available for years, but it was costly for the IRS to operate and difficult for taxpayers to navigate.

While redesigning the e-File system, Terry and his team focused on creating innovative public-private partnerships to reduce—and eventually eliminate—the direct cost to the taxpayer of filing online. He oversaw a workforce of over 6,500 employees, and carefully managed a budget of \$1.5 billion. Terry cultivated relationships with software companies and tax-preparation businesses, and the results paid off.

In 2005, when Terry retired after a long and distinguished career in public service, more than half of all tax returns were filed online for the first time. Today, this number continues to rise. For most Americans, what used to be a stressful experience is now fast, simple, and less expensive.

Thanks to Terry, the way Americans pay their taxes is forever changed.

Oliver Wendell Holmes, Jr., one of the great Supreme Court justices of the early twentieth century, once said that "taxes are the price we pay for a civilized society." I am glad to know that great Federal employees such as Terrence Lutes at the IRS continue to work hard every day ensuring that our tax collection system is as efficient and responsive as possible.

When I go online to file my own tax return this year, I will be thinking of these outstanding public servants at the IRS and all who work in the Federal government.

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

Mr. KAUFMAN. I thank the Chair.

(The remarks of Mr. KAUFMAN, Mr. MCCAIN, and Mr. LIEBERMAN pertaining to the submission of S. Res. 415 are printed in today's RECORD under "Morning Business.")

(The remarks of Mr. KAUFMAN pertaining to the submission of S. Res. 417 are located in today's RECORD under "Submitted Resolutions.")

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

Mr. INHOFE. Mr. President, first, let me identify and agree with the remarks of both the Senators concerning Iran and consider myself as part of that program.

I believe it is already the order, but in the event it is not, I ask unanimous

consent that I be recognized for up to 25 minutes as in morning business.

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

#### INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE

Mr. INHOFE. Mr. President, today I want to highlight several recent media reports uncovering very serious errors and possible fraud by the United Nations Intergovernmental Panel on Climate Change.

First of all, let me define what we are talking about here, because it has been around for a long time but a lot of people have forgotten. Way back in 1988, the United Nations formed the IPCC—the Intergovernmental Panel on Climate Change. The whole idea was to try to determine whether manmade gases—anthropogenic gases, CO<sub>2</sub>, and methane—caused global warming, and if in fact global warming is taking place.

It is hard on a day such as today, and the last few days, to be talking about global warming. I often say: Where is it when you need it? But nonetheless, you need to know three things about the IPCC: No. 1, the Obama administration calls it the gold standard of climate change science; No. 2, some say its reports on climate change represent the so-called consensus of scientific opinion about global warming; and No. 3, the IPCC and Al Gore were awarded the Nobel prize in 2007 for “their efforts to build up and disseminate greater knowledge about manmade climate change.”

Put simply, what this means is that in elite circles the IPCC is a big deal. So when ABC News, The Economist, Time magazine, and the Times of London, among many others, report that the IPCC’s research contains embarrassing flaws and that the IPCC chairman and scientists knew of the flaws but published them anyway—well, you have the makings of a major scientific scandal.

In fact, when Climategate first came out and it was discovered that they had been cooking the science at the IPCC, the UK Telegraph said: This is very likely the greatest scientific scandal of our generation.

So where to begin? Well, how about with the IPCC’s claim that the Himalayan glaciers would melt by 2035. It is not true. That is right; it is simply false. Yet it was put into the IPCC’s fourth assessment report. These assessment reports come out every year, and that is what the media normally get. They are not scientific reports, they are assessments that are made for policymakers. Here is what we know:

According to the Sunday Times, the claim about the Himalayas was based on—keep in mind we are talking about their statement that by 2035 the glaciers would melt—that claim was based on a 1999 story in a news magazine which in turn was based on a short

telephone interview with someone named Syed Hasnain, who is a very little-known Indian scientist.

Next, in 2005, the activist group World Wildlife Fund cited the story in one of its climate change reports. Yet despite the fact that the World Wildlife Fund report was not scientifically peer reviewed, it was still referenced by the IPCC. It was still in their report.

Third, according to the Times:

The Himalayan glaciers are so thick and at such high altitude that most glaciologists believe it would take several hundred years to melt at the present rate. Some are actually growing and many show little sign of change.

Lastly, when finally published, the Sunday Times wrote:

The IPCC report did give its source as the World Wildlife Fund study but went further, suggesting the likelihood of the glaciers melting was “very high.”

The IPCC, by the way, defines this as having a probability of greater than 90 percent.

So there you have that. But there is more. According to the Times:

The chairman [Rajendra Pachauri] of the leading climate change watchdog was informed that claims about melting Himalayan glaciers were false before the Copenhagen summit.

We all remember that Copenhagen summit in the middle of December. I was there for 2 hours; many were there for 2 weeks. Now to continue to quote from the Times article:

... [he] was told that the Intergovernmental Panel on Climate Change assessment that the glaciers would disappear by 2035 was wrong, but he waited 2 months to correct it. He failed to act despite learning that the claim had been refuted by several leading glaciologists.

So why was the Himalayan error included? We now know from the very IPCC scientist who edited the report’s section on Asia that it was done for political purposes. It was inserted to induce China, India, and other countries—this was at Copenhagen—to take action on global warming. According to the UK’s Sunday Mail, Murari Lal, the scientist in charge of the IPCC’s chapter on Asia, said this:

We thought that if we can highlight it, it will impact policymakers and politicians and encourage them to take some concrete action.

In other words, that is the motive she did it for. In other words, the Sunday Mail wrote that Lal “admitted the glacier alarmism was indeed purely to put political pressure on world leaders.”

This is what we have suspected and has been documented in the recent Climategate scandal. But there is still more. The glaciologist, Dr. Hasnain, who originally made the alarmist 2035 claim, works for Dr. Pachauri at his think tank in India. According to ABC News:

The glaciologist now works at the Energy and Resources Institute in New Delhi, whose director is none other than Rajendra Pachauri. Could this explain why Pachauri suppressed the error in the Himalayan passage of the IPCC report for so long?

Specifically, after the meeting in Copenhagen. So what has the IPCC done to correct this fiasco? I went into the IPCC report to see if a correction had been made. Well, the 2035 claim is still there. It is still there now. It has been denied, but it is still there. There is a note attached that says the following:

It has, however, recently come to our attention that a paragraph in the 938-page Working Group II contribution to the underlying assessment refers to poorly substantiated estimates of rate of recession and date for the disappearance of Himalayan glaciers. In drafting the paragraph in question, the clear and well-established standards of evidence, required by the IPCC procedures, were not applied properly.

I had to read this twice to understand what it said. The IPCC says the glacier alarmism came about because of poorly substantiated estimates. Well, that is one way of putting it. To me, from what we know now, the leadership of the IPCC lied about the Himalayas. They knew it was false, but for political purposes they kept it in.

I could go on and on, but let me cite a few more examples. The UK Telegraph recently uncovered more problems. This is the entity that said that is probably the greatest scientific scandal of our generation. The IPCC’s report from 2007 found observed reductions in mountain ice in the Andes, Alps, and Africa—all caused, of course, by global warming. In an article entitled “UN Climate Change Panel Based Claims On Student Dissertation and Magazine Article,” the Telegraph reported the following:

One of the sources quoted was a feature article published in a popular magazine for climbers which was based on anecdotal evidence from mountaineers about the changes they were witnessing on the mountainsides around them. The other was a dissertation written by a geography student, studying for the equivalent of a master’s degree at the University of Berne in Switzerland that quoted interviews with mountain guides in the Alps.

So that is the source they had. The article further reveals:

The IPCC report made use of 16 nonpeer reviewed WWF reports. One claim, which stated that coral reefs near mangrove forests contained up to 25 times more fish numbers than those without mangroves nearby, quoted a feature article on the WWF website. In fact, the data contained within the WWF article originated from a paper published in 2004 in the respected Journal Nature. In another example a WWF paper on forest fires was used to illustrate the impact of reduced rainfall in the Amazon rainforest, but the data was from another Nature paper published in 1999.

On top of this, we find that the IPCC was exaggerating claims about the Amazon. The report said that 40 percent of the Amazon rain forest was endangered by global warming. But again, as we have seen, this was taken from a study by the WWF—the World Wildlife Federation—and one that had nothing to do with global warming. Even worse, it was written by a green activist.

That is the statement they made—40 percent of the Amazon rain forest was

in danger. So again, we have the gold standard of climate research and a body that was awarded the Nobel prize of 2007. How can the world's pre-eminent climate body fall victim to such inaccuracy and, it must be said, outright fraud? I am sure for many in this body this information is shocking, but for me I am not at all surprised.

Five years ago, I sent a letter to Dr. Pachauri specifically raising the many weaknesses in the IPCC's peer-review process, but Dr. Pachauri dismissed my concerns. Here is how Reuters reported his response:

In the one-page letter, [Pachauri] denies the IPCC has an alarmist bias and says "I have a deep commitment to the integrity and objectivity of the IPCC process." Pachauri's main argument is that the IPCC comprises both scientists and more than 130 governments who approve IPCC reports line by line. That helps ensure fairness, he says.

Here is Dr. Pachauri defending it.

Given the significance of the reports, Dr. Pachauri should come clean and respond directly to the numerous charges made against himself and the IPCC. And given that Dr. Pachauri has testified before Congress, including the Senate Committee on Environment and Public Works, we should hear directly from him as soon as possible as to how he can salvage the IPCC's vanishing credibility.

How did we get to this point? I have been documenting deceit of this kind for several years now. But I must say that a great turning point occurred just a few months ago, when thousands of e-mails from the University of East Anglia's climatic research unit, or CRU, were leaked to the media. The CRU is one of the world's most prestigious climate research centers. The e-mails appear to show some of the world's preeminent climate scientists manipulating data, violating information disclosure laws by deleting e-mails, and blocking publication of research contrary to their own. They published only the research that would verify their positions in terms of global warming, in other words.

This revelation sparked several investigations, including one by the UK's Information Commissioner's Office. The office recently concluded that the CRU broke the UK's Freedom of Information Act. However, as the Times of London reported:

The Information Commissioner's Office decided that UEA failed in its duties under the Act but said that it could not prosecute those involved because the complaint was made too late . . . The ICO is now seeking to change the law to allow prosecutions if a complaint is made more than six months after a breach.

It is a little late but none the less a good change to make. The Times further reports on the details, noting:

In one e-mail, Professor Jones [former director of the CRU who has now stepped down because of the scandal] asked a colleague to delete e-mails relating to the 2007 report by the Intergovernmental Panel on Climate Change. He also told a colleague that he had persuaded the university authorities to ignore information requests under the act from people linked to a Web site run by climate sceptics.

Climate skeptics, so you understand the terminology that is used here, those are people like me who have looked at this and realize the science is cooked. I think most people agree with that now.

As we know, Climategate is just the beginning. Time magazine reported—let's keep in mind, this is Time magazine; the same magazine about a year ago that had a picture of the last polar bear standing on the last ice cube saying: It is coming and you ought to be real worried about it.

As we now know, Climategate was just the beginning.

Time magazine reported that 'Glaciergate' is a "black eye for the IPCC and for the climate-science community as a whole." In the article posted online from Thursday, January 21, 2010, Himalayan Melting: How a Climate Panel Got It Wrong, Time reports:

The mistake is a black eye for the IPCC and for the climate-science community as a whole. Climate scientists are still dealing with the Climategate controversy, which involved hacked e-mails from a major British climatology center that cast doubt on the solidity of evidence for global warming.

The Economist newspaper, which had accepted the IPCC climate "consensus," essentially claimed that it had been duped by the IPCC. Here's the Economist:

The idea that the Himalaya could lose its glaciers by 2035—glaciers which feed rivers across South and East Asia—is a dramatic and apocalyptic one. After the Intergovernmental Panel on Climate Change (IPCC) said such an outcome was very likely in the assessment of the state of climate science that it made in 2007, onlookers (including this newspaper) repeated the claim with alarm. In fact, there is no reason to believe it to be true. This is good news (within limits) for Indian farmers—and bad news for the IPCC.

The Economist finds that, "This mixture of sloppiness, lack of communication, and high-handedness gives the IPCC's critics a lot to work with."

Seth Borenstein with the Associated Press, a reporter whose objectivity I have questioned at various times, asked the IPCC to respond to Glaciergate. Borenstein reported in his January 20, 2010, article, UN Climate Report Riddled with Errors on Glaciers:

"The credibility of the IPCC depends on the thoroughness with which its procedures are adhered to," Yvo de Boer, head of the UN Framework Convention on Climate Change, told The Associated Press in an e-mail. "The procedures have been violated in this case. That must not be allowed to happen again because the credibility of climate change policy can only be based on credible science."

Borenstein also quotes Roger Pielke, Jr.'s concerns with the significance of the errors, writing, "However, Colorado University environmental science and policy professor Roger Pielke, Jr. said the errors point to a 'systematic breakdown in IPCC procedures,' and that means there could be more mistakes."

Further troubling is the revelation of several instances in which the IPCC relies on nonpeer reviewed work, mainly

from leftwing pressure groups. As the Wall Street Journal reports in an article from January 18, "Climate-Change Claim on Glaciers Under Fire":

The citation of an environmental advocacy group as a source within the IPCC report appears to be a rare, but not unique, occurrence. That same chapter on Asian climate impacts also cited work from the World Resources Institute, which describes itself as an 'environmental think tank.' Most of the thousands of citations supporting the rest of the voluminous IPCC report were from scientific journals.

Let me add also that Professor Bob Watson—first, Bob Watson was the predecessor to Pachauri. He said:

It is concerning that these mistakes have appeared in the IPCC report . . . Dr. Pachauri must take full responsibility for that.

I think it is interesting to those of us who have been stuck in Washington for the last 3 days because of the weather—it is a record; we have not had anything like this, the snowfall and temperatures, in the recorded history of Washington DC—that they are now talking about starting a new agency under NOAA. That is the National Oceanographic and Atmospheric Administration. That is all we need is one more bureaucracy to talk about global warming.

I might add, today there is supposed to be an EPW hearing on global warming, but it was canceled by the blizzard. A lot of things have been happening recently, and I think it is very important that people understand how serious this matter is.

I have to add one thing, since I think I have 6 minutes left, about my daughter Molly. My wife and I have been married 50 years. We have 20 kids and grandkids, I say to my friend in the chair. Six of those were up here because of a little adopted Ethiopian girl. My granddaughter and her brothers were making a igloo. They were stuck here with nothing else to do. If you want to see it, it is down at Third and Independence. Someone took the sign off, but the sign said: "Al Gore's New Home." I thought I would throw that out.

One last thing, in winding this up, about how serious this is. It became evident that the votes to pass the very expensive cap-and-trade bill, the largest tax increase in the history of America, somewhere between \$300 and \$400 billion a year—it would cost every tax-paying family in my State of Oklahoma some \$3,000 a year—the fact is, the votes are not there, not even close. They may be up to 20 votes, but it takes 60 to pass it. We know that.

When this happened, President Obama said: Fine. If Congress is not going to pass this bill, I can do it administratively through an endangerment finding of the Clean Air Act.

The Clean Air Act was passed many years ago. The Clean Air Act talks about pollutants such as SO<sub>x</sub>, NO<sub>x</sub>, and

mercury. If he can have an endangerment finding saying that CO<sub>2</sub> can be considered to be a pollutant, we can regulate it and do it through regulation.

I personally asked in a public hearing, live on TV, Lisa Jackson, Administrator of the EPA, I said: If you do an endangerment finding—which they have now done, but this is before then—is it accurate to say that is based on the science of the EIPC?

She said yes.

Now we have an endangerment finding based on science totally discredited, on the IPCC. I have no doubt in my mind that once March gets here and lawsuits start getting filed, the courts are going to look at this and say: Wait a minute. An endangerment finding that is going to totally change the United States of America is based on science that has been refuted in the last few months.

This is very serious. It is something that could be very expensive for America. I invite all my colleagues here, Democrats and Republicans, to look and see what Climategate is all about, what Amazongate is all about, what Glacierngate is all about. Cooked science has come up with the conclusion we are now experiencing global warming, and it is due to anthropogenic gases.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Mr. HARKIN pertaining to the submission of S. Res. 416 are located in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank my colleagues on the other side of the aisle. I believe there is a UC that the assistant majority leader wishes to make.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I have spoken to the Senators from Missouri and Alabama, and I ask unanimous consent that following the remarks of the Senator from Missouri I be recognized for 10 minutes, and then following that, Senator SESSIONS be recognized for 10 minutes.

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

The Senator from Missouri.

#### TERROR FIGHTING POLICY

Mr. BOND. Madam President, I thank the Chair and all of my friends for giving me this opportunity to speak.

For Americans, the world changed on September 11, 2001. We learned—at the cost of thousands of innocent lives—that treating terrorism as a law enforcement matter won't keep Americans safe.

My real concern is that this administration doesn't understand that every day now is like September 12. We cannot afford to revert back to a 9/11 mentality. Instead, we need to treat the terrorists as what they are—not common criminals but enemy combatants in a war.

I rise today to speak about my concerns with current terror-fighting policies of this administration and the vital importance of congressional oversight. Protecting this Nation from terrorist attack is our highest duty in government. In our great democracy, congressional oversight plays a critical role in ensuring that our government protects our citizens from terror attacks. Unfortunately, some in the White House don't agree.

Just this morning, a White House spokesperson on MSNBC charged that "politicians in Congress" should keep their opinions to themselves when it comes to one of our most vital national security interests—counterterrorism. I note in the previous administration, my colleagues on the other side of the aisle were quite free to speak about their views on the policies. Mr. Brennan, the Homeland Security adviser, wrote an editorial in USA TODAY critical of congressional criticism of the administration's counterterrorism policies and called them fear-mongering that serve the goals of al-Qaida.

I welcome comments of substance from the administration and from the other side on the criticism and the points I make, but you are not going to be able to silence the legislative branch. To do so is unworthy of the democracy we defend. One might believe that some were trying to shift attention away from the decisions that were made in recent years.

The bottom line is that my real beef is not with the White House spokespeople—although it is disappointing when the National Security Adviser claims that I have not told the truth about what he said—but with the dangerous policies of the administration. Clearly, my complaints are not directed at the men and women of the intelligence community—which was an insinuation by the White House spokesperson—because I believe the men and women of the intelligence community are doing their very best job under at best difficult circumstances. What I am concerned about is major broader policies over which they have no control have been changed in a way to make their job more difficult, and we should not be making their job more difficult.

One of the dangerous cases of "ready, fire, aim" and national security poli-

cies was the President's pledge to close the terrorist detention facility at Guantanamo Bay without any backup plans for the deadly terrorists housed there or how to handle them or how to treat them. There has been a temporary suspension of transfers of Gitmo detainees to Yemen and Saudi Arabia, but we understand the larger effort to transfer and release other dangerous Gitmo detainees continues.

Let me be clear. The previous administration released terrorists and sent them back to their homeland, some for rehabilitation, and 20 percent of them—1 out of 5—have returned to the battlefield and a couple of them apparently were coaching and training the "Underpants Bomber." That was a big mistake. Stop making the mistakes. We can learn from the mistakes we have made in the past. If we send more back, they will be attempting to kill more Americans. We shouldn't compromise our security here at home and the lives of our soldiers overseas to carry out a campaign promise. If a campaign promise doesn't square with national security, I humbly suggest that national security should prevail.

There is another case, the administration's decision to end or to bypass military commissions for detainees who are ready to plead guilty, as Khalid Sheikh Mohammed was, to move him to New York City for the show trial. I will address that later. But the administration continues to prepare to try senior al-Qaida detainees in U.S. article III criminal courts rather than the military commissions that Congress designed for these difficult and complicated cases, to be used in a courtroom that we constructed at Gitmo.

History has shown that civil criminal trials of terrorists unnecessarily hemorrhage sensitive classified information. The East Africa Embassy bombing trials made Osama bin Laden aware of cell phone intercepts, and surprisingly al-Qaida and Osama bin Laden started using different methods of communications. The trial of the first World Trade Center bomber Ramzi Yousef tipped off terrorists to another communications link that provided enormously valuable information. Well, their use of that link that we were able to compromise was shut down because they learned about it. Similarly, the trial of the "Blind Sheikh" Omar Abdel Rahman provided intelligence to Osama bin Laden. The trial of Zacarias Moussaoui resulted in the inadvertent disclosure of sensitive material. That is why former Attorney General Michael Mukasey, who tried some of these cases, said you cannot prevent a defense attorney from getting classified, highly confidential information in the course of an article III criminal trial. We know for a fact these civilian trials have aided the terrorists by giving them information on our Intelligence Committee.

The military commission system—and we passed a measure to regulate

the sign-in law in 2009—was designed to protect our sensitive intelligence sources and methods and to comply with the laws of war. Why abandon them? It will come as no surprise to my colleagues that I also disagree with the administration's "ready, fire, aim" strategy of handling the Christmas Day bomber.

On December 25, when Abdulmutallab landed on our shores, rather than incorporate intelligence into his interrogation, he was, after 50 minutes of brief questioning, Mirandized and offered a lawyer. Not surprisingly, he clammed up for 5 weeks. Intelligence is perishable and that 5 weeks was time that our intelligence system should have been operating on the questions he was only 5 weeks later answering. I don't know what purpose there was in Mirandizing him. That is an exclusionary rule. The only reason to offer Miranda rights is so you can use the words of the suspect against him. There is plenty of evidence of this guy who had strapped chemical explosives to his legs, set them off, and burned himself in front of 200 witnesses. It doesn't matter what he says, you can convict him. Why weren't our intelligence agencies consulted on the important decision of whether to Mirandize him? At least the FBI agents questioning him should have had the benefit of the intelligence that other agencies knew. Who is running the war on terrorism? I am afraid it is the Justice Department or the White House. Why did the White House announce what the few of us who were notified of his cooperation warned not to disclose? Not only did they disclose that information the day after we were advised, they disclosed the fact that Abdulmutallab's family came here to pressure him. Why on Earth would you do that? What message does that send? Unfortunately, to the family, they now have targets on their backs, because the terrorists know that they have convinced a member of their family to talk. What does it say to future sources? We are going to be concerned if they provide information that our intelligence agencies asked for that they will be identified by the White House and put at great risk.

The handling of the Christmas Day bomber also showed something else. When the President took away the powers of the CIA to question terror suspects, he said: We will handle it in the White House. We found out on December 25, 11 months after he announced it, that there was no high value detainee interrogation operation set up. They had no plans on how to do it. These people are supposed to be interrogating high value detainees and for a year they didn't set it up until after the attack.

Our intelligence chiefs testified early this month in an open hearing that there will be attempts by terrorists to attack again. Yet the administration waited until after the attack to begin the process of setting it up. These are

all important policy questions to raise. If the White House had its way, I wouldn't be asking them, but I am asking them because I am very fearful that our security has been lessened, and that this is a subject this body must address.

Article I of the Constitution created a legislative branch to help ensure that nobody in government is above oversight and being held accountable. I as a Senator have a right and responsibility as a Member of this body and as a representative of the people of my State to shine a light on policies that I think need to be changed, and I will continue to do so regardless of what is said about me. I am concerned that these policies of the administration have moved us back to a pre-9/11 mentality. That failed in the past and it will again.

In terms of the debate, my colleagues from California and Vermont have raised questions in a letter. They said we ought to try these terrorists in an article III court because the rule of law must prevail. Well, I agree, but we have a law. It is called the military commissions law that was passed and signed into law last year by the President that carries out the laws of war. Those are places which are much safer in terms of handling the terrorists, in terms of handling classified information.

Finally, they say that we should not—they strongly believe we ought to bring all of these people to article III courts and the prosecutors and everybody can handle those. It is not the prosecutors or the intelligence community we are worried about, No. 1. It is the cost, because the terrorist trial is going to bring undesirables here, and the city of New York figures it is going to have to spend over \$2 million a year. They do not want it. Nobody else wants it.

I tell you, even more important, when Khalid Shaikh Mohammed was apprehended, he said: My lawyer and I will see you in New York. He wants to come to New York or Washington or someplace where he can get a lot of media attention—and believe me, were he to be tried here, he would get a lot of media attention—because he wants to be able to spread his message to others who might be vulnerable that they need to join him in the jihad.

I also pointed out that disclosure of sensitive information has and will be released if you try him in an article III court because any defense attorney bound to provide the best defense for their clients will have to get into what the intelligence community knew, how they knew it about him, and that is a disaster. That is why I welcome the discussion and I urge a change in policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

## TRIALS OF DETAINEES

Mr. DURBIN. Madam President, it is so interesting to notice the change of approach. When President Bush was in office and we were fighting terrorism, Democrats would come to the floor and question interrogation and prosecution and be reminded over and over again by the Republican side of the aisle that we were literally interfering with national security and the authority of the Commander in Chief. I took those criticisms lightly because we do have a responsibility in Congress to speak out as a separate branch of government if we disagree with the Executive. Now to hear the other side, they have completely switched their position. Now they believe it is fair game to question the decisions that are being made on a daily basis by this President of the United States relative to our national security.

What my friend from Missouri, who has every right to come to the floor and speak his mind representing his State, has failed to mention is one basic fact: Since 9/11, 195 terrorists have been convicted in article III courts in the United States of America. Decisions were made by Republican President George W. Bush to prosecute suspected terrorists in article III courts, and, yes, that would involve Miranda warnings because they believed that was the most effective place to try them.

There was an alternative, so-called law-of-war approach, to use military commissions. How many of these suspected terrorists were actually tried before military commissions since 9/11? Three. Madam President, 3 have been convicted before military commissions, 195 in the courts of our land.

Now come the Republicans to say: We want to stop any conviction in any criminal court in America. We believe the people should only be convicted by military commission.

I take a different view. I believe this President, this Attorney General, and all of the people involved in national security should have the options before them: Use the best forum available to bring out the facts and to result in a conviction.

Do I fear our court system will be used by these alleged terrorists? They may try. They have not had much luck. When Zacarias Moussaoui, the so-called 19th 9/11 terrorist, was tried in Virginia, I don't think it changed America one bit. I don't think it changed the way we live and the security we have. Incidentally, he was convicted and is serving a life sentence in a supermax prison, one of our Federal penitentiaries.

Those who argue that we should never consider it ignore the obvious. Look at the list of terrorists convicted in Federal courts aside from Zacarias Moussaoui: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheikh; the al-Qaida sleeper agent Ali Al-Marri from my State of Illinois, where he was arrested; Ted

Kaczynski, the Unabomber; and Terry Nichols, the Oklahoma City coconspirator. Our courts work. Why would we choose to tie the hands of this administration to choose the most effective place to try a terrorist?

This notion, too, about keeping Guantanamo open, that it was just President Obama's idea, no, it happened to be Senator McCain's idea as well, his opponent in the Presidential election. He called for the closing of Guantanamo, as well as GEN Colin Powell, who was head of not only our State Department but head of national security under former Presidents. It is an indication to me that this, on a bipartisan basis, is something that should be done and done in a careful way. I would agree with that. But let's be honest. There has been a bipartisan consensus that this is a good thing to do to make America safe.

The last point I would like to make on this issue is that we have a responsibility to tell the world that those who are accused of terrorism will be tried in our courts or before our military commissions in a way that respects due process so that at the end of the day, we do not have an outcome where people question whether we applied the principles and values to these trials as we apply them to other trials involving Americans.

For those who argue they should be given the back of the hand, ignored, no warnings, no due process, at the end of the day we will not be stronger if we follow that counsel and that advice regardless of the outcome and afraid America's intentions will be questioned. I want us to be strong in this world, not fearful and shuddering and quivering before these alleged terrorists. We need to stand up strong, be safe as a nation, gather the information.

This so-called Christmas Day bomber who was found on this plane, whether he should have been Mirandized or not, the fact is, after a short period of time his family was brought to where he is being held in a Federal penitentiary—I might add, in Michigan—and after meeting with them, he gave even more information. To argue that he has not been helpful and not forthcoming I think states something the record does not reflect.

#### SNOWFALL IN WASHINGTON

Mr. DURBIN. Madam President, I first came here as a student in 1963. It is a great city. I went to college here, law school here. I lived a big part of my life, at least part time, in Washington, DC. I never could get over how people in this town reacted to snow. I am convinced that infants born in Washington, DC, are taken from the arms of their loving mothers right when they are born into a room where someone shows a film of a snowstorm with shrieking and screaming so that those children come to believe snow is a mortal enemy, like a nuclear attack, be-

cause I have seen, for over 40 years here, people in this town go into a full-scale panic at the thought of a snowfall. We joke about it. Those of us from parts of the country that get snow and know how to live with it cannot get over how crazy the reaction is many times. But in fairness, this has been a heck of a snowstorm. It is the largest on record in Washington, DC.

I wish to say a word on behalf of the people of the District of Columbia and all of the surrounding suburbs but especially for those who work on Capitol Hill, the Capitol Police as well as those in the Architect's office, who have literally been working night and day to make sure visitors who still come to this Capitol in the middle of a blizzard—I saw them yesterday coming up to take pictures of our Capitol dome—can come here safely. They have done an exceptional job. Today is no exception. Many of the members of our staff in the Senate and the folks who work here came trudging through the snow, and it was not easy to get here. I wish to say a word of thanks to all of them for the special sacrifice they have made and to say to the folks in Washington, DC: This was a heck of a snowstorm. You had every right to be concerned. Some of the other ones, maybe not, but this one was the real deal.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes.

#### HOME FORECLOSURES

Mr. DURBIN. Madam President, I wish to say one last word about an issue that affects my State and many others too. We received news today that the foreclosures of houses in Illinois have increased dramatically over last year—a 25-percent increase in foreclosures in Illinois over the last year. The same thing is true of many other States. The States hit the hardest are Nevada, Arizona, California, Florida, Utah, Idaho, Michigan, Illinois, Oregon, and Georgia.

We have to do more. The current system we have to deal with foreclosures is not working well. I met this morning with Treasury Secretary Geithner and gave him some ideas. I hope my colleagues will join me in coming up with approaches that will try to save people from this terrible outcome of foreclosure. Many people have lost their jobs and cannot pay their mortgages. Understandable. Maybe we can help them stay in their houses as renters or some other circumstance. Some have seen the value of their home start to decline to the point where the value of the home is less than the outstanding mortgage and there is no incentive to continue to sacrifice and make a mortgage payment for a home that is worth a fraction of its original value.

Those are realities. But the reality of foreclosure is obvious. I was with Congresswoman JAN SCHAKOWSKY in Evanston, IL, a few days ago. We went

down Gray Street and saw homes that had been good, solid, middle-class homes now boarded up literally for years that have become a blight on that neighborhood, dragging down the value of every other home and threatening the safety of the neighborhood as they become drug and crime havens. We are also seeing a phenomena like that in places such as Marquette Park in Chicago where the depopulation of neighborhoods is leading to commercial flight—food deserts in the city of Chicago brought about by foreclosures.

These banks have not done enough, period. They have not stepped up to their responsibility. I tried to change the Bankruptcy Code to give us a fighting chance for a bankruptcy judge to rewrite a mortgage to avoid foreclosure, and I was defeated by the banks. They have a powerful lobby on Capitol Hill even to this day despite what we have gone through.

This foreclosure situation has gone from bad to worse. I don't believe America can truly recover economically until we address this issue in a forthright manner. I look forward to working with the Treasury Secretary and the administration to do that when we return from the Presidents Day recess.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

#### TERRORIST TRIALS

Mr. SESSIONS. Madam President, I wish to share a few thoughts on a matter of concern; that is, our national security and the procedure by which we are handling people we arrest who are attacking this country. It will be a bit of a follow-on to what Senator BOND of Missouri had to say. I disagree with my distinguished colleague, Senator DURBIN, the assistant Democratic leader in the Senate. He is a member of the Judiciary Committee. I think he is wrong about that. I serve on the Judiciary Committee, too, and I would like to share a few thoughts.

First, there has been a full-scale attempt to assert that President Bush tried most of the terrorists or terrorism-related cases that developed over the years in the normal civilian courts. That is true to some degree. I notice that in the 195 cases Senator DURBIN said were tried in the Federal courts, he counted the Unabomber and Terry Nichols, one of the ones who blew up the Oklahoma City Federal Building. There is a big distinction: The Unabomber was not officially at war with the United States, had not declared war on the United States as al-Qaida has, and the United States had not declared war on him or on Terry Nichols, who was unknown, I suppose, to anybody at the time he committed that crime and was tried. A lot of the other cases deal with such things as aiding a terrorist by providing money to some terrorist organization that supports terrorism, violating various

complex Federal laws, and they are tried in Federal courts. They are American citizens, and they are tried here. That is the reason some of the cases that have been cited were tried in Federal court.

Another reason of significant import that cases were tried in Federal court rather than in military commissions was not because President Bush and his staff desired it but because we ended up with full-scale challenges of the military commissions as they were set up originally after 9/11. It took some time to get them set up. They were challenged. The U.S. Supreme Court concluded that a number of procedures conducted in the military commissions did not meet constitutional muster, did not comply with international agreements that the United States was a party to, and they said: You have to stop. So the military revamped what it was doing. The Congress passed the Detainee Act to legitimize the military commission trials and make sure it complied with the Supreme Court so we could get on with it.

We had some 5,700 people in Guantanamo. It was never the plan of the Bush administration, ever, to try those people in civilian courts. In fact, Congress appropriated the money. We built courtrooms with video cameras and security at the Guantanamo base and prison. We had them set up so trials could be conducted, press people could come and see the trials, subject to national security questions that may arise, and do those trials in that fashion.

But after President Obama got elected, he directed that Attorney General Holder evaluate whether we should do that anymore or not. First, he stopped them—he issued an order to stop it—and then he asked that a review be conducted. Mr. Holder conducted a review and he decided, and that report was, it would be presumed the people being held in Guantanamo—many of whom, most of whom were captured on the battlefield in Iraq and Afghanistan and other places in that area of the world—would be tried in civilian courts. This was an absolute reversal of that.

Last year, I offered legislation that was passed by both Houses of Congress and signed by the President that said, if you are part of al-Qaida, you are presumed to be at war with the United States, and it is not necessary, in a military commission trial, to put on all kinds of testimony, take weeks to prove we are at war with al-Qaida. That is simply already a fact; we have declared war. Congress has authorized the use of military force against al-Qaida, and they are attacking us. That is what war is.

So John Brennan, the President's Deputy National Security Adviser, which apparently in this administration is a pretty big position—I guess these kind of personal Presidential staff people are what you make of them—has been very public. He has made a series of statements which

demonstrate this administration has learned no lessons from their mishandling of the Christmas Day bomber—Umar Farouk Abdulmutallab—who was captured on Christmas Day, attempting to blow up a plane. Not only did Mr. Abdulmutallab have recent intimate knowledge of terrorist operations in Yemen, but, in fact, he came directly from Yemen, having been provided a bomb by al-Qaida, as they claimed credit for and apparently he has acknowledged.

He was an operative of al-Qaida. He had no legal claim to protections of the American criminal justice system, in any case. Even if he had been a citizen of the United States, which he was not a citizen, he had no right to be tried in civilian court in the United States because he was an agent and an operative and an unlawful combatant directly connected with al-Qaida. So this is a big deal. This is a matter that has to be analyzed and thought through, and I am concerned the administration is not listening.

The combination of these factors about his background made his capture a unique intelligence opportunity—one of the most important opportunities since 9/11 because al-Qaida had moved a large part of its operation to Yemen, using it as a training base. We did not know enough about it. It is very important we learn everything we can about how they are operating in Yemen, who the leaders are, and how they could be attacked and neutralized. So the decision to treat him as a civilian was very wrong.

The Department of Justice immediately began to treat him as a common criminal being investigated by the FBI. They gave him his rights after 50 minutes. In truth, colleagues, as a prosecutor myself, he should have been given his rights, probably—normally, you would expect them immediately. There may be some exceptions that could have allowed this not to occur immediately, but, normally, when a civilian is arrested and you ask him a single question, that individual who is in custody is entitled to Miranda rights then. Miranda rights are not just that you have a right to remain silent. Miranda rights say you have a right to remain silent, and we will appoint you a lawyer. You have a right to have one, and we will appoint you one if you don't have the money. People tend to clam up when they are told that.

So they offered him an attorney and did not treat him as the rare intelligence asset he was. That decision, it is indisputable, I truly believe—and this is not politics we are talking about—jeopardized the kind of fresh, timely intelligence that saves lives and prevents further attacks on the homeland of our country.

Mr. Brennan says one of the reasons the administration classified Abdulmutallab as a civilian was because he was captured on U.S. soil. This comment is truly startling and makes no sense. As Deputy National Security

Adviser to the President, Mr. Brennan ought to be aware that because Abdulmutallab is an al-Qaida operative, he is an unprivileged enemy belligerent—in our common, more current definition of the term—and, thus, he is automatically eligible for a military trial.

Indeed, the amendment I offered last year to the Military Commissions Act would permit this administration to do this without even having to reestablish the obvious: that al-Qaida is at war with the United States. So for the President, Mr. Holder or Mr. Brennan to persist in arguing that the law or past precedent somehow justified their treatment of Abdulmutallab as an ordinary criminal is wrong.

But Mr. Brennan has gone further than simply confusing the law. He has confused reality. In his recent op-ed in *USA Today*, he defiantly declares the administration made the right call on Abdulmutallab and that providing captured terrorists with civilian due process, civilian lawyers, and the right to remain silent has no negative impact on our ability to gather intelligence.

I dispute that. That is totally illogical. I don't know how many cases Mr. Brennan has prosecuted—not many. I prosecuted thousands; supervised them and tried them myself—but there is no doubt that you lose intelligence when you appoint a person a lawyer and tell them they have a right to remain silent. We are virtually the only country in the world that does this. It is not considered a constitutional right. It is something the court thought would be a good idea, to keep people from being abused by police, and so they set up this rule. It is not part of fundamental due process. It wasn't even a rule until 50 years ago. We never did that. Canada doesn't do it, France doesn't, Germany or Italy. We don't have to give them.

Mr. Brennan says: "There is little difference between military and civilian custody other than an interrogator with a uniform." Not so. He argues: "The suspect gets access to a lawyer and the interrogation rules are nearly identical." That is absolutely false.

I have been disappointed at the response the Attorney General has given to members of our committee, but when the National Security Adviser says something such as that—and I confronted him with it in a hearing earlier and he persists in making that kind of statement.

Mr. Brennan has also said previously that "there are no downsides or upsides in particular cases" and that because we are a nation of laws, criminal courts are the preferred venue. Not so—at least that this is a preferred venue. We are a nation of laws, and our laws and international law allow for the trial of unlawful combatants in military commissions. Attorney General Holder admitted that himself in a hearing when answering questions asked of him. I said: Mr. Holder, the decision to try these people in civilian court rather than military commissions is a policy decision, and basically

he said yes to that. It is not required under our law.

I can tell you—and not with speculation and it is not a theory but a fact—that criminal defendants will routinely stop talking and providing information when you give them Miranda and appoint them a lawyer. The first thing a lawyer is going to do, even in a case such as this, is to advise his client not to make any more statements, if he has made any. If he says he wants a lawyer, the questioning must stop until one is produced. That is what it means to try a person in civilian court. It is different.

You better believe terrorists who are trained to exploit our system will do everything in their power to use that system against us, if we let them. When Khalid Shaikh Mohammed—mastermind of the 9/11 attack, that so horrible day—was captured, he immediately asked for a lawyer. He already knew. But he wasn't given one. Instead, he was interrogated at length over a period of time as a military combatant. These interrogations revealed critically important information that helped foil other attacks that could have been levied against the United States.

When Abdulmutallab was questioned, he was questioned for only 50 minutes before being given a lawyer, and then he stopped talking. So we are told: Weeks later, he started talking again. Don't worry, Jeff. Quit complaining. Five weeks later, now he has started talking. We got his daddy to come in, and maybe we can do a plea bargain with him or something and he will talk.

Well, you can do that if they are in military custody. That is not only done in civilian custody, No. 1. No. 2, what did they have to promise him to get him to provide information? Did they promise him leniency? Did his lawyer demand it? Did his lawyer demand a written plea agreement before he allowed him to speak?

That is what will happen in most cases. I don't know what happened in this one. But we are not talking about just this case. We are talking about the policy of whether it is better to treat somebody as an unlawful combatant if they come from al-Qaida or in a civilian trial in America. Fresh, immediate intelligence is awfully valuable many times, and it can grow stale very quickly, although other intelligence can be extremely important, even if the person you have captured waits 6 months to give it to you. You just never know. But the truth is, the more intelligence, the sooner obtained, enhances our national security. Things that are unnecessary, that are not required by law, that delay the obtaining of intelligence and delay the amount you get is damaging to our national security.

So that is the policy question we are dealing with—this decision to put vitally important intelligence at great jeopardy. Nevertheless, Mr. Brennan

insists that military interrogations are the same as those provided to civilians. But when a civilian asks that the interrogation stop, it must stop at that moment. This is not true in the military situation.

Well, let me back up a little bit. A person apprehended on the battlefield, a prisoner of war, who is a lawful combatant, wearing a uniform, fighting the United States in a lawful manner, according to the laws of war, cannot be excessively interrogated, cannot be tried for any crime but can be held until the war is over, whether it is 1 year or 10 years. That is the law of the world and the law of the United States. But if they are unlawful combatants, as these malicious, devious, murdering al-Qaida thugs are—they do not wear a uniform, they do not comply with the laws of war, they attack innocent civilians deliberately to spread terror—they are in violation of the rules of war.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair, and I ask unanimous consent for 3 additional minutes.

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

What would have happened to Abdulmutallab if he were handled by the military? He would have been interrogated by people in short order who were intimately familiar with the situation that was developing in Yemen. They would have been able to ask him questions without a lawyer being present. He did not have to have a lawyer. They could use the legal interrogation techniques that Congress has passed into law and directed the military to use in these kinds of interrogations—and no more—or they would be in violation of the law. He would not be abused. Then eventually he would be tried, or not tried, as the military and the national security would dictate.

But if you arrest him and put him in a civil situation, he immediately has to be advised of his rights, immediately given a lawyer. He is then entitled to a speedy trial. He is entitled to demand discovery and information from the government about how they caught him and who provided the information. He could demand to go to trial and be able to speak out and use it as a forum to promote their agenda. There is a huge difference between the two.

For Mr. Brennan to act as if there is no difference, and for my colleagues to say President Bush tried these people, before we ever got the system up and running in a healthy way, is disingenuous. It is not accurate. It is not correct in a rational discussion of how this would be.

This is what President Obama said in an important "60 Minutes" interview about these terrorists:

Now, do these folks deserve Miranda rights? Do they deserve to be treated like a shoplifter down the block? Of course not.

Amen, Mr. President. Of course they are not entitled to Miranda rights. Of

course they are not entitled to be treated like a shoplifter down the block. But when they decided to try Abdulmutallab in a civilian court, that is exactly what they decided to do—to treat him with all the rights and rules an American citizen would have who is charged with a shoplifting offense.

We raised this issue last fall, back in September, with the Director of the FBI, about Miranda. I asked him:

So, if you're going to try terrorists in Federal court, they should be Mirandized, right?

If you want the statement, a particular statement at a particular time admissible in the Federal court, generally that—that has to be Mirandized.

In fact, you can't even ask him questions lawfully until you provide him the Miranda rights. If he says anything that is of value to the prosecution, it is dismissible.

Then what about this dramatic event in the Judiciary Committee? Senator LINDSAY GRAHAM, a very experienced Senator who still remains a JAG officer in the Air Force—after many years he still goes off to do his duty 2 weeks a year—he asked this dramatic question to the Attorney General.

If we captured bin Laden tomorrow, would he be entitled to Miranda warnings at the moment of capture?

Attorney General Holder:

Again, I'm not—that depends.

He never gave a full answer.

I thank the Chair and believe we have to get our heads straight on this matter and cease to provide the kind of due process rights that American citizens get and provide the kind of legitimate due process rights that a military commission provides—and they are great. But they are not the same. Understand, we are at war, and it creates a different dynamic in how the cases are processed.

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

The PRESIDING OFFICER. Will the Senator withhold?

Mr. SESSIONS. Madam President, I withhold—noting the absence of a quorum request.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

#### BUDGET DISPARITIES

Ms. MURKOWSKI. Madam President, when President Obama delivered his first State of the Union Address several weeks ago, I tell you I was pleasantly surprised by his remarks on energy policy. In addition to calling for bipartisan legislation, the President indicated his support for more nuclear energy and new oil and gas development. I think those are all positive steps. They are taking us in the right direction, not least because they would draw strong support in Congress, and I think they would help create jobs all across the country at a time when we are looking at how we can boost the economy and create jobs. This is critically important.

Having listened to the President's ideas, I looked forward to seeing how

the administration would begin to act on them, how this would all play out in his new budget. When that document came out last Monday, I expected to at least see some progress in each of the areas mentioned during the State of the Union Address. Instead, I found some disparities—some were small; some were rather striking—between the President's words to Congress and the agencies' requests from us.

This disconnect is both disappointing and perhaps a little difficult to explain. At the very least, it is apparent that the vision the President presented to Congress does not match what some of his agencies have in mind. I do not believe these are welcome shifts. Quite a few of the budget proposals would impair our ability to establish a comprehensive energy policy that addresses climate change and reduces our dependence on foreign oil. Instead of promoting bipartisanship—which I think we all want to try to do—I am concerned these same proposals would only deepen the divisions we have within Congress.

Let me fill out some of the details. Let's start with nuclear energy. During his remarks, the President indicated his support for a "new generation of safe, clean nuclear powerplants in this country." To the administration's credit, I believe it did follow through on that one in the budget request. As I have said before, allowing the Department of Energy to guarantee more loans for nuclear plants is a step in the right direction.

But I remind him, it has been a year, and this administration has yet to help finance a single nuclear project. That certainly is not due to lack of ability because the DOE has already had the authority to guarantee \$18 billion in new projects. It certainly is not due to the cost because, if carried out properly, this important support would not cost American taxpayers a single dime. But I believe the administration took a step backwards in its budget, away from that progress when it chose to abandon the Yucca Mountain project. The end of the nuclear fuel cycle is just as important as the beginning. Yet DOE is abandoning our best option for a repository and further exposing taxpayers to billions for the government's breach of contract.

We also need to make sure in America we are producing the raw materials used to generate nuclear energy. Here again, the administration took a step back last year by withdrawing roughly 1 million acres of uranium-rich lands in Arizona. As a result, our Nation has lost access to some of its highest grade uranium reserves. This is kind of familiar territory for us. We should know by now that following the same path for nuclear energy that we have been following for oil will not work. It is not going to help improve our energy security. It risks trading our dependence on foreign oil for a similarly devastating dependence on foreign uranium.

I appreciate the administration's direction with the loan guarantees with

nuclear. I, again, support that. But when we turn to the discussion about where we go with oil and gas, I cannot say the same for domestic oil and gas production—at least when it comes to this budget and the various proposals for tax hikes, new administrative fees, and efforts to make the permitting process actually more burdensome.

During his State of the Union Address, the President called for tough decisions to be made regarding new development. I had actually hoped he meant that his agencies were preparing to push forward with a plan that would allow America to develop more of its resources. But it appears I was mistaken. Instead of seeking to increase production, the budget request includes at least 21 new taxes and fees for the oil, natural gas, and coal industries—21 new taxes and fees. Collectively, these increases would raise producers' costs of business by an estimated \$80 billion.

That is going to translate into higher energy costs for consumers, fewer jobs for the American people. We cannot forget what basic economics tells us: When you tax something, you get less of it. So we will probably become even more dependent on foreign energy as well.

I ask unanimous consent that a list of all these 21 tax increases and fees for oil, gas, and coal producers be printed in the RECORD.

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

**TAX INCREASES AND NEW FEES PROPOSED FOR AMERICAN OIL, NATURAL GAS, AND COAL PRODUCERS IN THE ADMINISTRATION'S FISCAL YEAR 2011 BUDGET REQUEST**

1. Repeal enhanced oil recovery credit;
2. Repeal marginal well tax credit;
3. Repeal expensing of intangible drilling costs;
4. Repeal deduction for tertiary injectants;
5. Repeal passive loss exception for working interests in oil and natural gas properties;
6. Repeal percentage depletion for oil and natural gas;
7. Repeal the Section 199 manufacturing deduction for income attributable to domestic production of oil, gas, or primary products thereof;
8. Increase geological and geophysical amortization period for independent producers to seven years;
9. Repeal expensing and exploration and development costs for coal;
10. Repeal percentage depletion for hard, mineral fossil fuels;
11. Repeal capital gains treatment of certain coal-related royalties;
12. Repeal the Section 199 manufacturing deduction for income attributable to domestic production of coal and other hard mineral fossil fuels;
13. Levy new fees on applications for permits to drill (APDs)
14. Authority to collect \$10 million in fees for on-shore oil and gas production inspection on federal lands, and parallel request for \$10 million in fee collections under MMS budget;
15. \$4.00 per acre fee on "non-producing leases" in both federal lands and waters;
16. Repeal of EPACT '05 provisions incentivizing production of deepwater gas;
17. Repeal mandatory royalty relief to deepwater oil and gas production;

18. Proposed increase in royalty from 12.5% to 20–30%;

19. Modify rules for dual capacity taxpayers to effectively create double taxation on income derived from foreign holdings;

20. Repeal LIFO (last in, first out) accounting procedure;

21. Reimpose Superfund taxes disproportionately on the oil and natural gas industry.

Ms. MURKOWSKI. To be fair, these proposals that were laid out do not necessarily come as a total surprise to us. Many of these were also part of last year's budget. Last September there was a senior official from the Treasury Department who raised some eyebrows. He was testifying and said that somehow America overproduces oil and gas—overproduces oil and gas.

As we continue to import about 60 percent of our total supply of oil and even some of our natural gas, that claim is incredible to me. Our Nation clearly imports too much oil, and we use too much oil. But we certainly do not produce too much of it.

The administration is pursuing at least some of these tax increases and fees in order to "end fossil fuel subsidies." Those are the words they use. This is part of an agreement reached with the G20 last year. But interestingly, the G20 seems to have a very different idea of what that actually means.

According to the group, developed countries such as the United States and Canada only indirectly subsidize fossil fuels such as with certain tax treatment, and even these quasi-tax subsidies are small in comparison to the developing or underdeveloped countries.

If there are any direct fossil fuel subsidies that this administration could then eliminate, you have to ask the question: What would those be? As nearly as I can tell, there are two programs that would technically qualify, by the G20's definition, as direct fossil fuel subsidies. The first one is LIHEAP.

Madam President, you are very familiar with that program, and I think you and I would be in complete agreement that this program, which helps needy Americans afford home heating oil and gas, should certainly not be eliminated. I think we have some considerable support in the Congress defending LIHEAP. The President, Vice President, much of the Cabinet, and dozens of other Senators certainly have gone on the record supporting it.

The second direct fossil fuel subsidy in your region is the Northeastern Home Heating Oil Reserve. Again, I do not think the administration considered either of these programs when agreeing to phase out fossil fuel subsidies, but that is what they are—they are subsidies.

To return to the budget request, the Department of Interior notes that:

Repealing fossil fuel tax preferences helps eliminate market distortions, strengthening incentives for investments in clean renewable and more energy efficient technologies.

This is another exercise in semantics and some political buzzwords. When

the government gives actual subsidies and gives actual tax breaks to renewable energy development, these are entitled “incentives for investment.” When the government refrains from taxing oil and gas producers more than they are already taxed, it is not an incentive for investment anymore. But now we are calling it a “market distortion.”

I lay this out to hopefully be able to verbalize my concern.

When the President spoke before the Congress at his State of the Union Address, when he spoke about tough decisions on new oil and gas exploration, I had hoped we would finally begin to be using more of our resources to meet our own energy needs. But from looking at the new budget, it looks more as though our energy producers will be the ones who will be making the tough decisions. They are going to be making a tough decision as to whether they continue to operate here, whether they shut down, whether they head overseas or whether they produce our energy.

The final area I wish to address is the issue of climate change. During his address, the President called on the Congress to develop comprehensive energy and climate legislation. But a few days later, when the budget came out, the EPA requested more than \$40 million in order to begin regulating greenhouse gas emissions on its own.

Here in the Senate we have at least 41 Members already on record as opposing that approach. That is about as bipartisan as any climate bill has been—as we have been—in this Congress. By allowing the EPA to move forward, the President is actually limiting Congress's ability to develop a bipartisan climate bill. Instead of debating cap and trade or a carbon tax, we are going to spend at least some of our time talking about the EPA's regulations. As I have said many times before, EPA's actions will harm our economy at a time when we can least afford it.

I also believe the debate over climate policy belongs here. It belongs in the Senate. It belongs in the House. It belongs here in Congress because that is where the best interests of our constituents can fully be represented.

The truth of the matter is the administration is looking to have it both ways. On the one hand, its budget assumes a cap-and-trade bill will pass and on the other it is seeking millions of dollars to impose these backdoor climate regulations. I hope the administration will change its mind on the matter and decide to work with us as we work toward a balanced and comprehensive bill. But I think we recognize that the threat of regulations has not worked. I do not think it will work. I think it is time to take that command-and-control approach off the table.

Some may wonder why I have taken the time to point out that the ideas in the President's State of the Union Address do not entirely match the prior-

ities that were outlined in the administration's new budget. This is not intended as a criticism of the President. I am ready to work with him on the ideas he has offered to see if we can make some real progress for the American people. But, instead, I raise these issues because I believe they help illustrate why we have had such a tough time agreeing on a path forward. I am happy to work with the President and his administration on nuclear energy, on offshore development, and work toward bipartisan legislation. But I am not willing to support many of the energy-related proposals we are seeing now within the administration's new budget.

Again, you might ask the question, why does it all matter? It matters because the budget is filled with programs that are authorized by Congress which are supposed to reflect not only our priorities but the priorities of the American people. And while it may not be readily apparent, the budget does send the signal about whether our work here is going to be continued by the executive branch. If the agencies seek to promote just some of our goals, and actually hamper others, that will only make Senators more cautious about what they are willing to support, especially if it is part of a comprehensive package.

Madam President, I am going to close this evening by simply reaffirming what I have said before. I am ready to work with the President on the ideas he has offered up during his State of the Union Address to help make those tough decisions on offshore development, to ensure a new generation of nuclear powerplants is built, to play a constructive role in bipartisan legislation.

But the energy proposals contained in the budget also make me question whether all of those priorities would receive equal treatment if put into law. I hope the agencies would carry out all of Congress's priorities—not just some—that could be contained in a bipartisan energy bill. The President's address several weeks ago makes me think that, in fact, this is all possible. But the new budget makes me question whether, in fact, that is the case.

With that, Madam President, I thank the Chair for the time and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### EARTHQUAKE IN HAITI

Mr. WHITEHOUSE. Madam President, bad things can bring out the best in people, and I rise today to speak about our response to the earthquake

that devastated Haiti last month and, in particular, about the compassionate efforts that Rhode Islanders have made to help those who suffered through this tragedy.

The 7.0 scale magnitude earthquake that struck Haiti on January 12, 2010, is the first great natural disaster of the new decade. Even before the quake struck, the small island nation of Haiti faced significant challenges as the poorest country in the Western Hemisphere.

Haiti has been wracked by years of political strife and the constant threat of hurricanes and tropical storms. This most recent catastrophe has led to, for us, almost unimaginable suffering on the part of the people of Haiti. On February 3, Haiti's Prime Minister Jean-Max Bellerive announced that over 200,000 people had been confirmed dead. The U.N. has estimated that over 3 million people have been directly affected by the disaster. In the capital of Port-au-Prince alone, over 700,000 people have been displaced, with over 480,000 departing the city altogether.

Even before the quake, many Rhode Islanders were helping down in Haiti. One constituent, Nathalie Gooding, a CPA from Warwick, was down there volunteering her time at an orphanage for young Haitian girls in Port-au-Prince. She was there when the quake hit. Days went by before her husband Michael and her children were able to communicate with her. As people with families around us—I know the distinguished Presiding Officer and I certainly can share the intense concern that family must have gone through hearing the news coming out of Haiti for hours and for days and knowing that their wife and their mom was down in the middle of that and not hearing from her. As my colleagues can imagine, it was a traumatic experience. Fortunately, as it turned out, Nathalie was safe and she is now back in Rhode Island with her family. But as I acknowledge our relief efforts after the quake, I also wish to acknowledge and commend all of the volunteers from Rhode Island and elsewhere who were so generously helping in Haiti even before the earthquake struck.

The response of the United States to this tragedy has been remarkable. In the weeks since the earthquake, the United States has provided over \$439 million in emergency humanitarian assistance. The Department of State, the U.S. Agency for International Development, the Department of Defense, and other government entities have all contributed to this effort. Water distribution, sanitation, and hygiene programs, food assistance, logistical support, provisions for shelter, and essential medical services have all been top priorities. The United States military has sent aircraft and ships to Haiti, including the USNS *Comfort* hospital ship and the aircraft carrier USS *Carl Vinson*. These vessels are providing medical treatment facilities and humanitarian assistance. In addition, the 22nd Marine Expeditionary Unit and the

Army's 82nd Airborne Division have contributed 5,500 troops to distribute humanitarian aid and provide search, rescue, and security support.

We have also seen extraordinary generosity from the American people, from the millions of dollars individuals and businesses have donated to help the victims of the quake to the volunteers who have selflessly traveled to Haiti to lend their valued expertise. Americans, with our spirit of generosity, have tried to help in any way they possibly can.

The outpouring of support in my State of Rhode Island for those affected by this catastrophe has been overwhelming. Many Rhode Islanders have generously donated to organizations to give whatever they can to the relief of this devastated country. At the Blessed Sacrament School in Providence, a school some of whose students have family members and loved ones in Haiti, the 270-plus students of this small school, pre-K to 8th grade, raised over \$1,680 for the Red Cross in a single day. Students and parents at the Frenchtown Elementary School in East Greenwich raised close to \$1,700 for the Save the Children relief organization to help those in Haiti. At the St. Mary Academy Bay View in Riverside, fifth graders have produced handmade yarn dolls which they are selling to raise money for the victims of the earthquake.

This month, students of the University of Rhode Island launched a "URI Helping Haiti Campaign" with the goal of raising \$100,000 for Plan USA, a Rhode Island-headquartered relief organization that provides direct humanitarian assistance to 1.5 million children in 49 countries across the globe, including, of course, Haiti.

Ten members of the Rhode Island National Guard's 143rd Airlift Wing flew to Haiti in January to assist in the relief efforts. The 143rd's latest humanitarian mission before this was in New Orleans assisting in the aftermath of one of our own country's greatest natural disasters, Hurricane Katrina. This time they flew to Haiti to provide medical transportation and evacuation assistance.

In January, even the Rhode Island Democratic and Republican parties put politics aside and came together to host a joint fundraiser to benefit the humanitarian relief efforts led by the Clinton-Bush Haiti Fund.

Rhode Island doctors such as Christopher Born, Sachita Shah, Stephen Sullivan, and Helena Taylor, of Rhode Island Hospital, traveled to Haiti in the days after the earthquake to provide critical medical services to those injured. These doctors lacked the medical equipment there that we here take for granted and they were also forced to use rudimentary medical procedures to treat the numerous patients who had lined up for assistance. But they did it, and they made a difference.

These stories represent only a small fraction of the generosity that Rhode

Islanders and the American people have exhibited in the weeks following the earthquake. It is truly inspiring how Americans have joined together to help the people of Haiti in this time of need. I know that the world is watching this example of America's generosity, good will, and professionalism. I am proud of the many contributions that came from my small State.

The thoughts and prayers of Rhode Islanders and indeed all Americans will continue to be with those who have suffered and are still suffering in this catastrophe as the recovery and rebuilding begins to take shape. I know the generosity and the good work will continue.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### NOMINATION OF SUSAN CARBON

Mrs. SHAHEEN. Mr. President, I came to speak because there are Senators—anonymous Senators—who are blocking the confirmation of Susan Carbon, who has been nominated to be the new Director of the Office of Violence Against Women. Susan is from my home State of New Hampshire. For 2 months, the Office of Violence Against Women was denied leadership and direction, not because there are Senators who think Susan Carbon is unqualified for this position but because they believed that blocking her confirmation somehow gains them leverage on completely unrelated pet issues. I understand that, hopefully, finally today, after the issue had been raised in the press, that hold has been lifted.

Blocking the confirmation of Susan Carbon as Director of the Office of Violence Against Women is a perfect example of what people see as what is wrong with Washington.

Every 2 minutes, someone in this country is a victim of sexual violence. Every 52 seconds, a woman is victimized by a spouse or a partner. These crimes devastate victims' lives. They shatter families. They often create fear in whole communities. The Office of Violence Against Women leads our Nation's efforts to prevent these deadly crimes and to identify, capture, and punish the perpetrators.

The Office of Violence Against Women works with law enforcement, with victim advocates, with the health care community, and so many others. It provides financial and technical assistance to communities across the country that are working to end domestic violence, sexual assault, and stalking.

I am sure every Senator in this body personally knows someone who has been the victim of domestic violence or sexual assault. I am sure all Senators know how hard their local police and victim advocates work to stop domestic and sexual violence. They know how much the communities in their States appreciate the assistance they get from the Office of Violence Against Women. I would bet almost every Senator, at one time or another, has taken credit for the funding that the Office brings back to organizations within their home States.

Yet despite a unanimous vote by the Judiciary Committee back on December 3 of last year that recommended Susan Carbon's confirmation, unnamed Senators have blocked her confirmation for 2 months.

President Obama's choice to lead our country's efforts against domestic and sexual violence happens to be a State court judge from New Hampshire. It might interest some of the Republican Senators in this body to know—those who are blocking her confirmation—that it was JUDD GREGG, the senior Republican Senator from New Hampshire, who first recognized Susan's capabilities and potential. In 1991, then-Governor GREGG appointed Susan Carbon to be a part-time district court judge. After I became Governor, I appointed Susan to be a full-time judge. Because of her commitment to ending domestic violence and her expertise in family law, she was named the supervisory judge of the family division in New Hampshire, a position she still holds.

Susan Carbon is exceptionally qualified to serve as the Director of the Office of Violence Against Women. She is the leading voice in New Hampshire on domestic violence and family law, and she has been the driving force behind so many of New Hampshire's efforts to strengthen legal protections for victims of domestic violence.

Susan also has become a national leader on domestic violence. She frequently serves as a faculty member for the National Judicial Institute on Domestic Violence, and she chaired the project which produced the guidebook for professionals and their work around domestic violence court orders.

I do not know what political party Susan Carbon belongs to and it does not matter because she is a good and decent person who is anxious to take on the responsibility of leading the Office of Violence Against Women.

I ask Senators who think about blocking such nominations in the future to imagine what it is like to explain to a nonpartisan, earnest public servant, eager to assume a new position of national leadership, that her confirmation is being blocked because one or two anonymous Senators want a new Federal building or some other project in their States or want a defense contract awarded to a certain company or because they are mad at Attorney General Eric Holder for some unrelated issue.

These Senators, cloaked in anonymity, were not punishing Attorney General Holder by blocking Susan Carbon's confirmation. These Senators were punishing the victims of domestic and sexual violence in States across this country. They were punishing the police officers who put their lives at risk every time they enter homes plagued by domestic violence. They were punishing community groups that are working to prevent domestic and sexual violence. What these Senators did by blocking the confirmation of the Director of the Office of Violence Against Women for 2 months was, simply and plainly, wrong.

I hope the news that her confirmation is moving forward is a correct one. I hope that for the 70 or so other good public servants who are just trying to serve this country who have been nominated, that their nominations will also go forward so we can make sure people are in the positions they should be to run this government on behalf of the citizens of this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

#### UNANIMOUS CONSENT REQUEST— H.R. 3961

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3961; that the amendment at the desk be considered and agreed to; the bill, as amended, be read three times, passed, the motion to reconsider be laid upon the table, and that any statements be printed in the Record.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCONNELL. Reserving the right to object, and I am going to object, I believe this is the simple unemployment insurance extension?

Mr. REID. That is true.

Mr. McCONNELL. I would suggest another way to resolve the issue. I would ask that with respect to the House message on the CJS appropriations bill, that the motion to concur with an amendment be the Baucus-Grassley amendment which was filed earlier today.

I know my friend and colleague is going to offer some scaled-down version of that shortly. But if we offered instead the Grassley-Baucus amendment which was filed earlier today, that would include the unemployment extension. That was one of the features of that Baucus-Grassley amendment.

So if this consent were granted, it would allow us to work on that pack-

age rather than the version that the leader of the majority is going to offer here shortly that includes only four of those provisions.

Mr. REID. Mr. President, I do not accept the modification.

Mr. McCONNELL. Let me add that unemployment insurance does not expire until February 28. We will be back on February 22, and hopefully we will have sufficient time to work on an acceptable extension.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCONNELL. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

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

Mr. REID. I ask the Chair to lay before the Senate a message from the House with respect to H.R. 2847.

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2847) entitled "An Act making appropriations for the Departments of Commerce and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes," with a House amendment to the Senate amendment.

#### AMENDMENT NO. 3310

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to the bill, with an amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows.

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to H.R. 2847 with an amendment numbered 3310.

Mr. REID. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask for the yeas and nays on that amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The yeas and nays are ordered.

#### AMENDMENT NO. 3311 TO AMENDMENT NO. 3310

Mr. REID. Mr. President, I have a second-degree amendment at the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3311 to amendment No. 3310.

The amendment (No. 3311) reads as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 5 days after enactment.

#### CLOTURE MOTION

Mr. REID. I 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 legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur with an amendment to the House amendment to the Senate amendment to H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Harry Reid, Patrick J. Leahy, Barbara Boxer, Charles E. Schumer, Mark R. Warner, Tom Harkin, Kay R. Hagan, Daniel K. Inouye, Bill Nelson, Al Franken, Max Baucus, John D. Rockefeller, IV, Robert Menendez, Amy Klobuchar, Daniel K. Akaka, Frank R. Lautenberg, Byron L. Dorgan, Richard Durbin.

Mr. REID. I ask unanimous consent that the cloture vote occur at 5:30 p.m. on Monday, February 22, and the mandatory quorum be waived.

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

#### MOTION TO REFER WITH AMENDMENT NO. 3312

Mr. REID. Mr. President, I have a motion to refer with instructions at the desk, and I ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Appropriations Committee, with instructions to report back forthwith with an amendment numbered 3312.

The amendment is as follows:

At the end, insert the following:

"The Committee on Appropriations is requested to study the impact of any delay in implementing the provisions of the Act on job creation on a regional and national level."

Mr. REID. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 3313

Mr. REID. Mr. President, I have an amendment to my instructions at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3313 to the instructions of the motion to refer.

The amendment is as follows:

At the end, add the following:

"and include statistics of specific service-related positions created."

Mr. REID. Mr. President, I ask for the yeas and nays on that amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3314 TO AMENDMENT NO. 3313

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3314 to amendment No. 3313.

The amendment is as follows:

At the end, add the following:

"and the impact on the local economy."

## MORNING BUSINESS

### EARTHQUAKE RELIEF IN HAITI

Mr. CARDIN. Mr. President, I rise today to express my continued concern over the humanitarian situation in Haiti after the catastrophic January 12, 2010, earthquake. While the destruction has proved to make the aid and relief situation on the ground complicated and difficult to navigate, President Obama's promise to the people of Haiti that "you will not be forsaken; you will not be forgotten" has rung true to date.

The global outpouring of support, in resources, money and people on the ground has been encouraging. American contributions and activities, in particular, have been exemplary. All Americans should be proud of how we have responded to help our neighbors who are truly facing the direst of situations. Countless U.S. Government agencies and the military quickly swung into action, managed by Operation Unified Response and Joint Task Force Haiti, and have moved with an impressive and coordinated effort.

I would like to make a special mention of the efforts carried out by Marylanders.

The USNS *Comfort*, which we are proud to have based in Baltimore Harbor, provides a mobile, flexible, and rapidly responsive afloat medical capability for acute medical and surgical care, with a 550-person medical team and a capacity of 250 hospital beds and room to treat 1,000 people. The day after the earthquake, the *Comfort* was ordered to assist in the humanitarian relief efforts as a crucial part of Operation Unified Response. Upon its arrival in Haiti on January 20, the crew of the *Comfort* immediately began critical lifesaving medical treatment early that day, and on the following day, the first baby was safely born aboard.

Four weeks after the earthquake, the *Comfort* remains on station and is operating at maximum capacity. Surgeries

are being performed around the clock and the intensive care units and wards are filled. Navy Dr. (CAPT) Jim Ware, the medical group commander, noted upon arrival, "We have never had that number on the ship, but we can do it," capturing the spirit of the all the U.S. troops on the ground in Haiti. Yet these committed men and women are certainly facing a daunting challenge—the *Comfort* has cared for more patients in the last 5 days than it did during all of the two wars in Iraq. In less than a week, it has changed from a dormant hospital floating in Baltimore into one of the busiest U.S. Department of Defense medical facilities in the world and we applaud them for their work.

I have always been heartened by good work done by the many international aid organizations based in Maryland. IMA World Health, Lutheran World Relief, and the Associated Jewish Community Federation of Baltimore are just a few of many agencies that are providing critical supplies and volunteers on the ground.

We are grateful for good news from these agencies, such as the safe return of IMA employees Sarla Chand, Ann Varghese and IMA President Rick Santos, who were trapped for 55 hours under the rubble of a destroyed hotel. In Haiti to work on treatment of tropical diseases that afflict much of the population, they wanted to stay and help with earthquake relief as soon as they were freed from the rubble. While they have now returned home to Maryland, their colleagues at IMA have followed suit, sending 80 boxes of relief supplies, each with medication and supplies to treat common illnesses of 1,000 people for 2 months.

The Baltimore-based Catholic Relief Services was already providing vital lifesaving and development programming before the earthquake struck and was tapped by the Vatican to head up all of the Church's efforts in Haiti. The 313 permanent staff members on the ground are part of the lead agency providing aid in partnership with the 82nd Airborne Division. They have distributed food to more than 200,000 people through relief distribution sites in Port-au-Prince, and are coordinating with local agencies to speed up the distribution. They have worked tirelessly to open three operating rooms at St. Francois de Sales Hospital in Port-Au-Prince, where volunteer medical teams are now performing up to 200 operations a week, with at least one Baltimore based doctor already working there—Dr. Guesly Delva, a native of Haiti.

It is important to remember that donations made by ordinary citizens are what allow these wonderful organizations to continue doing their important work. I am proud that Marylanders have pitched in. Catholic Relief Services has raised more than \$38 million in donations, including generous second collections from local parishes. Text donations by Maryland residents to the Red Cross and other worthy or-

ganizations carrying out aid and relief projects are in the top 10 percent nationwide. These organizations will continue to need support over the coming months, so I am pleased to see the U.S. Congress, with my support, moved quickly to pass the Haiti Assistance Income Tax Incentive—HAITI—Act, which allows U.S. taxpayers to make charitable contributions to Haiti relief programs before March 1, 2010, and claim those contributions on their 2009 income tax return.

The earthquake and the reconstruction effort further underscore the need for smart and effective U.S. development aid to countries mired in poverty, like Haiti. I am heartened to see that the newly confirmed USAID Administrator Raj Shah was in place to skillfully manage the government-wide aid process. But more must be done to strengthen and empower the U.S. Agency of International Development. This is precisely why I was an original cosponsor to the bipartisan Foreign Assistance Revitalization and Accountability Act of 2009, S. 1524. Reforming our foreign assistance matters and can have a direct effect on how people withstand and move on after disasters.

If the U.S. has the best trained and most equipped development agency in the world, the foreign aid we deliver and implement will foster sustainable development, enabling the governments of these countries to have the infrastructure and capacity to better manage the situation when tragedy strikes. I am glad this legislation has passed through committee and I look forward to working with my colleagues in both the Senate and the House to ensure effective development assistance is a key part of U.S. foreign policy.

As a member of the Senate Foreign Relations Committee, I will continue to closely monitor the situation and help provide the needed assistance and resources to our Haitian neighbors.

### ANTITERRORISM TOOLS AND INFORMATION SHARING

Mr. CARDIN. Mr. President, I rise today to speak about the December 25, 2009, attempted bombing of Northwest flight 253, and the steps we must continue to take to improve the effectiveness of our Nation's antiterrorism tools and interagency information sharing and communication. On December 25, 2009, a Nigerian national, Umar Farouk Abdulmutallab, attempted to detonate an explosive device while onboard Northwest flight 253 from Amsterdam to Detroit. The device did not explode, but instead ignited, injuring Mr. Abdulmutallab and two other passengers.

As a result of their heroic actions, the flight crew and passengers were able to restrain Mr. Abdulmutallab and the plane safely landed. Mr. Abdulmutallab was not on the U.S. Government's terrorist Watch List but he was known to the U.S. intelligence community.

Following the December 25, 2009, attempted bombing, President Obama directed that a number of actions be taken and that government officials conduct a complete review of the terrorist watch listing system. The White House made public a summary of the preliminary report, and the President issued several directives to the Director of National Intelligence and the National Counterterrorism Center, NCTC, as well as to a number of Departments and Agencies.

Since the December 25, 2009, attempted bombing, the State Department, the Transportation Security Administration and the Customs and Border Patrol have also made a number of changes to their procedures, including the addition of new and enhanced screening procedures.

Information sharing and interagency communication have come a long way since the tragic events of September 11, 2001, and our ability as a government to share information and coordinate our actions to detect terrorist threats and protect the American people is better today than it was on September 11. Our intelligence, law enforcement and homeland security communities have successfully disrupted and prevented numerous terrorist threats.

But the attempted bombing of Northwest flight 253, the January 20 full Judiciary Committee hearing, and the Terrorism and Homeland Subcommittee hearing I chaired in April 2009 on information sharing, prove that our ability to detect, disrupt and prevent terrorist threats still has gaps.

As chairman of the Terrorism and Homeland Security Subcommittee, my first hearing was on information sharing. I said at that time that I was concerned that the U.S. Government did not have in place “a comprehensive strategy to overcome bureaucratic hurdles to sharing of information that could prevent a terrorist attack.” It is clear that terrorism-related information on Mr. Abdulmutallab was available, but no one acted on that information enough to challenge him before he boarded the airplane.

We face evolving terrorist threats to our Nation, and our enemies and their supporters are clever, resourceful, diverse and dangerous. We need to be able to detect tomorrow’s plots whether they are in the air, on land or from the sea.

As a result, I am going to continue to work to ensure that we remove the cultural, institutional and technological obstacles that impede our ability to prevent the next terrorist attack. Having access to the right information has little or no value if it is not pushed, on an ongoing basis, to the specific agencies that have the responsibility to both analyze it and take follow-up action, as necessary. When new information is added to our databases, relevant data must be able to find other relevant data. We need to explore real-time connections that can constantly update analysts to ensure that infor-

mation is sent and seen before terrorists are able to board airplanes.

During the January 20 full Judiciary Committee hearing, I sought answers on who in our government is responsible for analyzing terrorism information and taking the necessary follow-up actions to protect the American people. The FBI Director indicated that NCTC was responsible for analyzing threat information and nominating known or suspected international terrorists to the Terrorist Screening Center for watch listing purposes. The Department of Homeland Security stated that it was a “consumer” of that information. But clearly, no one followed up to conduct further screening to prevent Mr. Abdulmutallab from boarding the plane. The President has ordered the Director of National Intelligence to “reaffirm and clarify roles and responsibilities,” and he has directed that NCTC ensure that there is a process to “prioritize to pursue thoroughly and exhaustively terrorism threat threads,” to include “follow-up action.”

We must make sure that our law enforcement, intelligence, and homeland security professionals clearly know who is responsible for taking follow-up actions on terrorist threats to protect the American people, and that those officials have the authorities they need to act.

At the same time, as I have said previously, we must make sure that our government uses its scarce resources wisely, and that it strikes an appropriate balance between national security and protecting civil liberties. We have now begun consideration of the fiscal year 2011 budget. We need to ensure that we have well-qualified and highly skilled airport screeners and security personnel, and that they have all the tools they need to do their jobs effectively. Mistaken profiling, however, that improperly relies on racial and ethnic factors, and not on a broad and valid set of behavioral indicators of potential terrorist activity, will waste resources, harm innocent individuals, and impede commerce.

And while technology can play a crucial role in helping to prevent terrorists from bringing explosives onto our airplanes, the first priority must be to identify potential terrorists and keep them off our airplanes.

The memory of 9/11 has been seared in our hearts and our minds, but it does not blind us to the wisdom that we must fight our enemies while remaining true to the fundamental principles and values upon which this great nation was founded. The men and women of our Armed Forces and their families have sacrificed much to protect and preserve the American way of life and what this nation stands for. The ongoing threat from al-Qaida and other terrorists who intend to harm us is real. However, we do not need to choose between security and liberty. Legitimate debate will continue on how we should

strike the balance between the two at this time in our Nation’s history.

But we must reject what the 9/11 Commission described as the “false choice” between security and liberty. Whether the issue is information sharing, airport screening procedures, or the use of technology, we can protect the American people from harm while preserving civil rights and liberties.

#### 90TH ANNIVERSARY OF THE LEAGUE OF WOMEN VOTERS

Mr. CARDIN. Mr. President, I would like to commemorate the League of Women Voters on the occasion of the 90th anniversary of its founding. Carrie Chapman Catt and many of the same women leaders who were part of the women’s suffrage movement founded the League of Women Voters in Chicago on February 14, 1920, during the convention of the National American Woman Suffrage Association. The convention was held 6 months before the 19th amendment to the U.S. Constitution was ratified. The 19th amendment, of course, gave women the right to vote after a 72-year struggle.

According to the league’s Web site:

[T]he League began as a “mighty political experiment” designed to help 20 million women carry out their new responsibilities as voters. It encouraged them to use their new power to participate in shaping public policy. From the beginning, the League was an activist, grassroots organization whose leaders believed that citizens should play a critical role in advocacy. It was then, and is now, a nonpartisan organization.

The league is proudly nonpartisan; it neither supports nor opposes candidates or political parties at any level of government. But the league is actively engaged on issues of vital concern to its members and the broader public.

The league has a long, rich history that grows more illustrious with each passing year. For the past 90 years, the league has played an active role in educating not just women but the entire American public about our democracy and about those individuals who are candidates for elective office. Carrie Chapman Catt founded the organization with a call to women of all parties and political leanings to come together in order to help pass legislation that would protect and aid major political movements in the future. Her nonpartisan organization would soon take on a prominent role in politics through its efforts on behalf of citizen education and advocacy. Today, there are more than 850 chapters across the country advancing Carrie Chapman Catt’s original idea, including 16 local leagues in Maryland.

The League of Women Voters continues to play an important role in helping shape public policy by ensuring that the public is well-informed. Not only has the league been active on the policy front, but it has helped make our democracy stronger by sponsoring debates that educate citizens and by

making voter information easily accessible. The league's election information Web site—vote411.org—is an invaluable resource for many Americans, providing information on voter registration and on local, State, and national issues.

The league has been instrumental in promoting democracy and civil society abroad, too. After World War II, for instance, the league supported efforts to establish the United Nations, U.N., and became one of the first organizations in the country officially recognized by the United Nations as a nongovernmental organization, NGO. The league also supported the creation of the World Bank, the International Monetary Fund, the North Atlantic Treaty Organization, and the Marshall plan. The league maintains official observer status at the U.N. today and has special consultative status to the Economic and Social Council. The league served as an NGO delegate to the United Nations Framework Convention on Climate Change in December. Through its Global Democracy Program, the league has sponsored cultural exchange programs and leaders from Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Colombia, and Brazil.

Throughout my career in public service, I have participated in many League of Women Voters debates, and I have seen first-hand the impact that the league has had on educating the voters about the issues that most directly affect them. We are a stronger democracy thanks to the continuing efforts of the League of Women Voters.

I ask my colleagues to join me in recognizing the profound impact the League of Women Voters has had on our Nation throughout its 90-year history. I look forward to working with the league in the future to ensure that Marylanders and all Americans have the information they need to make informed decisions on election day. And I welcome and support the league's ongoing efforts to "export" what is best about our democracy to countries around the world. We are fortunate indeed such an organization exists.

#### VOTE EXPLANATIONS

Mr. THUNE. Mr. President, earlier this week, as a result of multiple flight cancellations due to the significant snowstorm in Washington, DC, I was unable to vote on Executive Calendar No. 468, the nomination of Joseph A. Greenaway, Jr. to be United States Circuit Judge for the Third Circuit and cloture on Executive Calendar No. 688, the nomination of Craig Becker to be a member of the National Labor Relations Board. Had I been present for these votes, I would have voted to confirm Mr. Greenaway to the Third Circuit, and would have voted against cloture on the nomination of Craig Becker because of my concerns that, based on his previous statements, he would inappropriately bring his far out of the mainstream personal beliefs and agenda to the NLRB.

#### ADDITIONAL STATEMENTS

REMEMBERING CLU COTTER,  
KEVIN O'CONNOR, TOM  
STOLBERG, AND DENNIS DONOVAN

• Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of Clu Cotter, Kevin O'Connor, Tom Stolberg and Dennis Donovan. Clu Cotter, Kevin O'Connor, and Tom Stolberg, employees of the California Department of Fish and Game, and Dennis Donovan, a helicopter pilot, tragically lost their lives on January 5 as a result of a helicopter crash that occurred during an aerial deer survey in eastern Madera County.

Mr. Clu Cotter was the California Department of Fish and Game associate wildlife biologist stationed in Fresno. He studied the North Kings and San Joaquin deer herd populations, and rare carnivores in the high Sierra. He was often called on to hike or ski into remote rugged areas for his work. He was admired by his colleagues for his positive attitude and devotion to his family, as well as his humor and endurance. In his spare time, he was an avid outdoorsman with a keen sense of adventure and a deep love for nature. In 1985, he used his outdoor survival expertise to successfully rescue a group of hikers who were caught in a lightning storm in Yosemite National Park. A devotee of cyclocross, a form of bicycle racing that combines elements of cross country cycling and mountain biking, Mr. Cotter was renowned as one of the most accomplished mountain and distance bicyclists in Central California. Mr. Cotter is survived by his wife Marni Cotter and two sons Ren and Jamie. He was 48 years old.

Mr. Kevin O'Connor was a Supervising Biologist in the California Department of Fish and Game region 4 office. After graduating from the University of California at Davis in 1993, he worked for the U.S. Forest Service in central and northern California. He later joined the Department of Fish and Game and was promoted to senior wildlife biologist in 2005, a position in which he oversaw wildlife management in nine counties. He was a dedicated scientist who did extensive work on the ecological reserves of the San Joaquin Valley and with protected and game species in the southern Sierra Nevada range. He sought to elevate the quality of scientific information used for wildlife management and other activities, such as timber harvest. His expertise and leadership qualities earned him the respect of his colleagues. Mr. O'Connor is survived by his wife Keri; daughters Kayleigh, Michelle, McKenna; and son Aidan. He was 40 years old.

Mr. Tom Stolberg joined the Department of Fish and Game in 2004 as a scientific aide in the wildlife management office in Fresno. Tom was the first person most people talked to when contacting Wildlife Management, and soon became expert in providing the public

sound information on hunting, and wildlife in general. Tom also assisted with wildlife habitat projects, capturing deer for telemetry studies, and managing special public hunts. A man of many talents and interests, ranging across hunting, medieval reenactments, metalworking, gourmet cooking, and more, he was described by his mother as a walking encyclopedia who could speak with authority on everything from sewing to World War II history. An Eagle Scout, he remained active in the Boy Scouts by leading young people on trips through Yosemite National Park. He will be fondly remembered for his professionalism, intellect, and his warm and gregarious personality. Mr. Stolberg is survived by his parents, brother, and sister. He was 31 years old.

Mr. Dennis Donovan, a Navy veteran, was an experienced pilot who had been flying since 1964. He served three combat tours in Vietnam and worked as a naval flight instructor in Florida, and for the USGS and Mercy Air. He worked for Landalls Aviation for almost 30 years and had flown for State and Federal agencies, including the California Department of Fish and Game for survey flights. Mr. Donovan is survived by his wife Arlene; two sons Matthew and Douglas; and five grandchildren. He was 70 years old.

I offer my heartfelt condolences to the families, friends, and colleagues of Clu Cotter, Kevin O'Connor, Tom Stolberg and Dennis Donovan. They valiantly sacrificed their lives in the pursuit of science, conservation and public service. Their exemplary service epitomizes the commitment and courage that Department of Fish and Game employees exhibit on a daily basis, often with little or no fanfare, in their effort to enhance the public enjoyment of California's abundant and diverse native wildlife, fish and plant species and their natural communities. Their goodness, dedication and accomplishments are appreciated and will not be forgotten.

We shall always be grateful for the sacrifice that Clu Cotter, Kevin O'Connor, Tom Stolberg and Dennis Donovan made in giving their lives to help make California a better place. They will be missed.●

#### RECOGNIZING BRUBAKER ELEMENTARY SCHOOL

• Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Brubaker Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools

must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Brubaker Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Brubaker became an Energy Star Partner in May 2008. Brubaker has reduced its energy consumption, operating costs and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Brubaker Elementary. Along with helping the environment, Brubaker is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Brubaker Elementary community instill a strong sense of environmental and natural resource stewardship. Brubaker Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Brubaker Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Brubaker Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING CAPITOL VIEW ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Capitol View Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Capitol View Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Capitol View became an Energy Star Partner in May 2008. Capitol View has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights,

computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Capitol View Elementary. Along with helping the environment, Capitol View is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Capitol View Elementary community instill a strong sense of environmental and natural resource stewardship. Capitol View Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Capitol View Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Capitol View Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING CARVER COMMUNITY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Carver Community School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Carver is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Carver became an Energy Star Partner in May 2008. Carver has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Carver. Along with helping the environment, Carver is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Carver community instill a strong sense of environmental and natural resource stewardship. Carver's students, teachers, and staff are fos-

tering excellent habits of conscientious citizenship.

Mr. President, Carver Community School has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Carver Community School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING CATTELL ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Cattell Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Cattell Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Cattell became an Energy Star Partner in May 2008. Cattell has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Cattell Elementary. Along with helping the environment, Cattell is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Cattell Elementary community instill a strong sense of environmental and natural resource stewardship. Cattell Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Cattell Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Cattell Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

### RECOGNIZING GOODRELL MIDDLE SCHOOL

• Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Goodrell Middle School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Goodrell is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Goodrell became an Energy Star Partner in May 2008. Goodrell has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Goodrell Middle School. Along with helping the environment, Goodrell is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Goodrell community instill a strong sense of environmental and natural resource stewardship. Goodrell's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Goodrell has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Goodrell Middle School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

### RECOGNIZING GREENWOOD ELEMENTARY SCHOOL

• Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Greenwood Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to

attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Greenwood Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Greenwood became an Energy Star Partner in May 2008. Greenwood has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Greenwood Elementary. Along with helping the environment, Greenwood is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Greenwood Elementary community instill a strong sense of environmental and natural resource stewardship. Greenwood Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Greenwood Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Greenwood Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

### RECOGNIZING HANAWALT ELEMENTARY SCHOOL

• Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Hanawalt Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Hanawalt Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Hanawalt became an Energy Star Partner in May 2008. Hanawalt has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple

measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Hanawalt Elementary. Along with helping the environment, Hanawalt is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Hanawalt Elementary community instill a strong sense of environmental and natural resource stewardship.

Hanawalt Elementary's students, teachers and staff are fostering excellent habits of conscientious citizenship.

Hanawalt Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Hanawalt Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

### RECOGNIZING HOWE ELEMENTARY SCHOOL

• Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Howe Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system. At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Howe Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Howe became an Energy Star Partner in May 2008. Howe has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Howe Elementary. Along with helping the environment, Howe is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Howe Elementary community instill a strong sense of environmental and natural resource stewardship. Howe Elementary's students,

teachers, and staff are fostering excellent habits of conscientious citizenship.

Howe Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Howe Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING MORRIS ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Morris Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Morris Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Morris became an Energy Star Partner in May 2008. Morris has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Morris Elementary. Along with helping the environment, Morris is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Morris Elementary community instill a strong sense of environmental and natural resource stewardship. Morris Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Morris Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Morris Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING OAK PARK ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Oak Park Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Oak Park Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Oak Park became an Energy Star Partner in May 2008. Oak Park has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Oak Park Elementary. Along with helping the environment, Oak Park is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Oak Park Elementary community instill a strong sense of environmental and natural resource stewardship. Oak Park Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Oak Park Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Oak Park Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING PERKINS ACADEMY

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Perkins Academy School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many

facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Perkins Academy is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Perkins became an Energy Star Partner in May 2008. Perkins has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Perkins Academy. Along with helping the environment, Perkins is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Perkins community instill a strong sense of environmental and natural resource stewardship. Perkins Academy's students, teachers and staff are fostering excellent habits of conscientious citizenship.

Perkins Academy has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Perkins Academy for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING PLEASANT HILL ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Pleasant Hill Elementary School in Pleasant Hill, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Pleasant Hill Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Pleasant Hill became an Energy Star Partner in May 2008. Pleasant Hill has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple

measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Pleasant Hill Elementary. Along with helping the environment, Pleasant Hill is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Pleasant Hill Elementary community instill a strong sense of environmental and natural resource stewardship. Pleasant Hill Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Pleasant Hill Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Pleasant Hill Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING SOUTH UNION ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate South Union Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, South Union Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, South Union became an Energy Star Partner in May 2008. South Union has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as South Union Elementary. Along with helping the environment, South Union is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the South Union Elementary community instill a strong sense of environmental and nat-

ural resource stewardship. South Union Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

South Union Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at South Union Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING STOWE ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Stowe Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Stowe Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Stowe became an Energy Star Partner in May 2008. Stowe has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Stowe Elementary. Along with helping the environment, Stowe is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Stowe Elementary community instill a strong sense of environmental and natural resource stewardship. Stowe Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Stowe Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Stowe Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING WINDSOR ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Windsor Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Windsor Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Windsor became an Energy Star Partner in May 2008. Windsor has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools such as Windsor Elementary. Along with helping the environment, Windsor is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Windsor Elementary community instill a strong sense of environmental and natural resource stewardship. Windsor Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Windsor Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Windsor Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### RECOGNIZING WRIGHT ELEMENTARY SCHOOL

● Mr. HARKIN. Mr. President, I would like to take a moment to congratulate Wright Elementary School in Des Moines, IA, which was granted the Energy Star Rating in recognition of its achievements and practices in energy conservation.

The Energy Star Program is jointly managed by the U.S. Environmental Protection Agency and U.S. Department of Energy to reduce energy consumption and greenhouse gas emissions. This program encourages many

facets of energy efficiency. In order to attain the Energy Star Rating, schools must score in the top 25 percent under EPA's national rating performance system.

At a time when the United States leads the world in energy consumption and emissions of greenhouse gases, Wright Elementary is serving as a role model for schools across the Nation. Under the guidance of the Des Moines School District, Wright became an Energy Star Partner in May 2008. Wright has reduced its energy consumption, operating costs, and greenhouse gas emissions. Simple measures such as turning off lights, computers, and convenience appliances have made a big difference.

It is important that we recognize the accomplishments of schools like Wright Elementary. Along with helping the environment, Wright is also saving the school district money. During these tough economic times, with school budgets under extreme pressure, this is more important than ever. Just as important, these energy conservation actions by the Wright Elementary community instill a strong sense of environmental and natural resource stewardship. Wright Elementary's students, teachers, and staff are fostering excellent habits of conscientious citizenship.

Wright Elementary has proven that simple changes in daily practices can make a big difference. By setting attainable goals and being persistent, this school community was able to make significant improvements. I offer my sincere congratulations to everyone at Wright Elementary School for their commitment to energy efficiency and conservation. They make the State of Iowa proud.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### ECONOMIC REPORT OF THE PRESIDENT DATED FEBRUARY 2010 WITH THE ANNUAL REPORT OF THE COUNCIL OF ECONOMIC ADVISERS FOR 2010—PM 45

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

*To the Congress of the United States:*

As we begin a new year, the American people are still experiencing the effects of a recession as deep and painful as any we have known in generations. Traveling across this country, I have met countless men and women who have lost jobs these past two years. I have met small business owners struggling to pay for health care for their workers; seniors unable to afford prescriptions; parents worried about paying the bills and saving for their children's future and their own retirement. And the effects of this recession come in the aftermath of a decade of declining economic security for the middle class and those who aspire to it.

At the same time, over the past two years, we have also seen reason for hope: the resilience of the American people who have held fast—even in the face of hardship—to an unrelenting faith in the promise of our country.

It is that determination that has helped the American people overcome difficult periods in our Nation's history. And it is this perseverance that remains our great strength today. After all, our workers are as productive as ever. American businesses are still leaders in innovation. Our potential is still unrivaled. Our task as a Nation—and our mission as an Administration—is to harness that innovative spirit, that productive energy, and that potential in order to create jobs, raise incomes, and foster economic growth that is sustained and broadly shared. It's not enough to move the economy from recession to recovery. We must rebuild the economy on a new and stronger foundation.

I can report that over the past year, this work has begun. In the coming year, this work continues. But to understand where we must go in the next year and beyond, it is important to remember where we began one year ago.

Last January, years of irresponsible risk-taking and debt-fueled speculation—unchecked by sound oversight—led to the near-collapse of our financial system. We were losing an average of 700,000 jobs each month. Over the course of one year, \$13 trillion of Americans' household wealth had evaporated as stocks, pensions, and home values plummeted. Our gross domestic product was falling at the fastest rate in a quarter century. The flow of credit, vital to the functioning of businesses large and small, had ground to a halt. The fear among economists, from across the political spectrum, was that we could sink into a second Great Depression.

Immediately, we took a series of difficult steps to prevent that catastrophe for American families and businesses. We acted to get lending flowing again so ordinary Americans could get financing to buy homes and cars, to go to college, and to start businesses of their own; and so businesses, large and small, could access loans to make payroll, buy equipment, hire workers, and

expand. We enacted measures to stem the tide of foreclosures in our housing market, helping responsible homeowners stay in their homes and helping to stop the broader decline in home values.

To achieve this, and to prevent an economic collapse, we were forced to use authority enacted under the previous Administration to extend assistance to some of the very banks and financial institutions whose actions had helped precipitate the turmoil. We also took steps to prevent the collapse of the American auto industry, which faced a crisis partly of its own making, to prevent another round of widespread job losses in an already fragile time. These decisions were not popular, but they were necessary. Indeed, the decision to stabilize the financial system helped to avert a larger catastrophe, and thanks to the efficient management of the rescue—with added transparency and accountability—we have recovered most of the money provided to banks.

In addition, even as we worked to address the crises in our banking sector, in our housing market, and in our auto industry, we also began attacking our economic crisis on a broader front. Less than one month after taking office, we enacted the most sweeping economic recovery package in history: the American Recovery and Reinvestment Act of 2009. The Recovery Act not only provided tax cuts to small businesses and 95 percent of working families and provided emergency relief to those out of work or without health insurance; it also began to lay a new foundation for long-term growth. With investments in health care, education, infrastructure, and clean energy, the Recovery Act has saved or created roughly two million jobs so far, and it has begun the hard work of transforming our economy to thrive in the modern, global era.

Because of these and other steps, we can safely say that we've avoided the depression many feared. Our economy is growing again, and the growth over the last three months was the strongest in six years. But while economic growth is important, it means nothing to somebody who has lost a job and can't find another. For Americans looking for work, a good job is the only good news that matters. And that's why our work is far from complete.

It is true that the steps we have taken have slowed the flood of job losses from 691,000 per month in the first quarter of 2009 to 69,000 in the last quarter. But stemming the tide of job loss isn't enough. More than 7 million jobs have been lost since the recession began two years ago. This represents not only a terrible human tragedy, but also a very deep hole from which we'll have to climb out. Until jobs are being created to replace those we've lost—until America is back at work—my Administration will not rest and this recovery will not be finished.

That's why I am continuing to call on the Congress to pass a jobs bill. I've

proposed a package that includes tax relief for small businesses to spur hiring, that accelerates construction on roads, bridges, and waterways, and that creates incentives for homeowners to invest in energy efficiency, because this will create jobs, save families money, and reduce pollution that harms our environment.

It is also essential that as we promote private sector hiring, we continue to take steps to prevent layoffs of critical public servants like teachers, firefighters, and police officers, whose jobs are threatened by State and local budget shortfalls. To do otherwise would not only worsen unemployment and hamper our recovery; it would also undermine our communities. And we cannot forget the millions of people who have lost their jobs. The Recovery Act provided support for these families hardest hit by this recession, and that support must continue.

At the same time, long before this crisis hit, middle-class families were under growing strain. For decades, Washington failed to address fundamental weaknesses in the economy: rising health care costs, growing dependence on foreign oil, an education system unable to prepare all of our children for the jobs of the future. In recent years, spending bills and tax cuts for the very wealthiest were approved without paying for any of it, leaving behind a mountain of debt. And while Wall Street gambled without regard for the consequences, Washington looked the other way.

As a result, the economy may have been working for some at the very top, but it was not working for all American families. Year after year, folks were forced to work longer hours, spend more time away from their loved ones, all while their incomes flat-lined and their sense of economic security evaporated. Growth in our country was neither sustained nor broadly shared. Instead of a prosperity powered by smart ideas and sound investments, growth was fueled in large part by a rapid rise in consumer borrowing and consumer spending.

Beneath the statistics are the stories of hardship I've heard all across America—hardships that began long before this recession hit two years ago. For too many, there has long been a sense that the American dream—a chance to make your own way, to work hard and support your family, save for college and retirement, own a home—was slipping away. And this sense of anxiety has been combined with a deep frustration that Washington either didn't notice, or didn't care enough to act.

These weaknesses have not only made our economy more susceptible to the kind of crisis we have been through. They have also meant that even in good times the economy did not produce nearly enough gains for middle-class families. Typical American families saw their standards of living stagnate, rather than rise as they had for generations. That is why, in the

aftermath of this crisis, and after years of inaction, what is clear is that we cannot go back to business as usual.

That is why, as we strive to meet the crisis of the moment, we are continuing to lay a new foundation for prosperity: a foundation on which the middle class can prosper and grow, where if you are willing to work hard, you can find a good job, afford a home, send your children to world-class schools, afford high-quality health care, and enjoy retirement security in your later years. This is the heart of the American Dream, and it is at the core of our efforts to not only rebuild this economy—but to rebuild it stronger than before. And this work has already begun.

Already, we have made historic strides to reform and improve our education system. We have launched a Race to the Top in which schools are competing to create the most innovative programs, especially in math and science. We have already made college more affordable, even as we seek to increase student aid by ending a wasteful subsidy that serves only to line the pockets of lenders with tens of billions of taxpayer dollars. And I've proposed a new American Graduation Initiative and set this goal: by 2020, America will once again have the highest proportion of college graduates in the world. For we know that in this new century, growth will be powered not by what consumers can borrow and spend, but what talented, skilled workers can create and export.

Already, we have made historic strides to improve our health care system, essential to our economic prosperity. The burdens this system places on workers, businesses, and governments is simply unsustainable. And beyond the economic cost—which is vast—there is also a terrible human toll. That's why we've extended health insurance to millions more children; invested in health information technology through the Recovery Act to improve care and reduce costly errors; and provided the largest boost to medical research in our history. And I continue to fight to pass real, meaningful health insurance reforms that will get costs under control for families, businesses, and governments, protect people from the worst practices of insurance companies, and make coverage more affordable and secure for people with insurance, as well as those without it.

Already, we have begun to build a new clean energy economy. The Recovery Act included the largest investment in clean energy in history, investments that are today creating jobs across America in the industries that will power our future: developing wind energy, solar technology, and clean energy vehicles. But this work has only just begun. Other countries around the world understand that the nation that leads the clean energy economy will be the nation that leads the global economy. I want America to be that nation.

That is why we are working toward legislation that will create new incentives to finally make renewable energy the profitable kind of energy in America. It's not only essential for our planet and our security, it's essential for our economy.

But this is not all we must do. For growth to be truly sustainable—for our prosperity to be truly shared and our living standards to actually rise—we need to move beyond an economy that is fueled by budget deficits and consumer demand. In other words, in order to create jobs and raise incomes for the middle class over the long run, we need to export more and borrow less from around the world, and we need to save more money and take on less debt here at home. As we rebuild, we must also rebalance. In order to achieve this, we'll need to grow this economy by growing our capacity to innovate in burgeoning industries, while putting a stop to irresponsible budget policies and financial dealings that have led us into such a deep fiscal and economic hole.

That begins with policies that will promote innovation throughout our economy. To spur the discoveries that will power new jobs, new businesses—and perhaps new industries—I have challenged both the public sector and the private sector to devote more resources to research and development. And to achieve this, my budget puts us on a path to double investment in key research agencies and makes the research and experimentation tax credit permanent. We are also pursuing policies that will help us export more of our goods around the world, especially by small businesses and farmers. And by harnessing the growth potential of international trade—while ensuring that other countries play by the rules and that all Americans share in the benefits—we will support millions of good, high-paying jobs.

But hand in hand with increasing our reliance on the Nation's ingenuity is decreasing our reliance on the Nation's credit card, as well as reining in the excess and abuse in our financial sector that led large firms to take on extraordinary risks and extraordinary liabilities.

When my Administration took office, the surpluses our Nation had enjoyed at the start of the last decade had disappeared as a result of the failure to pay for two large tax cuts, two wars, and a new entitlement program. And decades of neglect of rising health care costs had put our budget on an unsustainable path.

In the long term, we cannot have sustainable and durable economic growth without getting our fiscal house in order. That is why even as we increased our short-term deficit to rescue the economy, we have refused to go along with business as usual, taking responsibility for every dollar we spend. Last year, we combed the budget, cutting waste and excess wherever we could, a

process that will continue in the coming years. We are pursuing health insurance reforms that are essential to reining in deficits. I've called for a fee to be paid by the largest financial firms so that the American people are fully repaid for bailing out the financial sector. And I've proposed a freeze on nonsecurity discretionary spending for three years, a bipartisan commission to address the long-term structural imbalance between expenditures and revenues, and the enactment of "pay-go" rules so that Congress has to account for every dollar it spends.

In addition, I've proposed a set of common sense reforms to prevent future financial crises. For while the financial system is far stronger today than it was one year ago, it is still operating under the same rules that led to its near-collapse. These are rules that allowed firms to act contrary to the interests of customers; to hide their exposure to debt through complex financial dealings that few understood; to benefit from taxpayer-insured deposits while making speculative investments to increase their own profits; and to take on risks so vast that they posed a threat to the entire economy and the jobs of tens of millions of Americans.

That is why we are seeking reforms to empower consumers with the benefit of a new consumer watchdog charged with making sure that financial information is clear and transparent; to close loopholes that allowed big financial firms to trade risky financial products like credit defaults swaps and other derivatives without any oversight; to identify system-wide risks that could cause a financial meltdown; to strengthen capital and liquidity requirements to make the system more stable; and to ensure that the failure of any large firm does not take the economy down with it. Never again will the American taxpayer be held hostage by a bank that is "too big to fail."

Through these reforms, we seek not to undermine our markets but to make them stronger: to promote a vibrant, fair, and transparent financial system that is far more resistant to the reckless, irresponsible activities that might lead to another meltdown. And these kinds of reforms are in the shared interest of firms on Wall Street and families on Main Street.

These have been a very tough two years. American families and businesses have paid a heavy price for failures of responsibility from Wall Street to Washington. Our task now is to move beyond these failures, to take responsibility for our future once more. That is how we will create new jobs in new industries, harnessing the incredible generative and creative capacity of our people. That is how we'll achieve greater economic security and opportunity for middle-class families in this country. That is how in this new century we will rebuild our economy stronger than ever before.

BARACK OBAMA,  
THE WHITE HOUSE.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DORGAN for the Committee on Indian Affairs.

\*Lillian A. Sparks, of Maryland, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

By Mr. LEAHY for the Committee on the Judiciary.

Nancy D. Freudenthal, of Wyoming, to be United States District Judge for the District of Wyoming.

Denzil Price Marshall Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio.

Timothy S. Black, of Ohio, to be United States District Judge for the Southern District of Ohio.

James P. Lynch, of the District of Columbia, to be Director of the Bureau of Justice Statistics.

Genevieve Lynn May, of Louisiana, to be United States Marshal for the Eastern District of Louisiana for the term of four years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BROWN of Ohio:

S. 3007. A bill to amend the Internal Revenue Code of 1986 to impose a 50 percent tax on bonuses paid by TARP recipients, and for other purposes; to the Committee on Finance.

By Mr. CORNYN (for himself and Mr. BROWNBACK):

S. 3008. A bill to establish a program to support a transition to a freely elected, open democracy in Iran; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3009. A bill to require the Secretary of the Treasury to mint coins in recognition of and to commemorate the 1863 Invasion of Pennsylvania, the Battle of Gettysburg, and President Abraham Lincoln's Gettysburg Address; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. GILLIBRAND:

S. 3010. A bill to require the Federal Aviation Administration to implement the recommendations issued by the National Transportation Safety Board following the Board's investigation of the loss of control of Colgan Air Flight 3407 on February 12, 2009, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. GILLIBRAND:

S. 3011. A bill to address HIV/AIDS in the African-American community, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. CASEY (for himself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. KAUFMAN, Mr. LEVIN, and Mr. KERRY):

S. Res. 415. A resolution calling for a renewed focus on the Government of the Islamic Republic of Iran's violations of internationally-recognized human rights as found in the Universal Declaration of Human Rights; considered and agreed to.

By Mr. HARKIN (for himself, Mrs. SHAHEEN, and Mr. DURBIN):

S. Res. 416. A resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate; to the Committee on Rules and Administration.

By Mr. KAUFMAN (for himself, Ms. COLLINS, Mr. BINGAMAN, and Mrs. GILLIBRAND):

S. Res. 417. A resolution supporting the goals and ideals of National Engineers Week, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### ADDITIONAL COSPONSORS

S. 841

At the request of Mr. KERRY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 1217

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1217, a bill to amend title XIX of the Social Security Act to improve and protect rehabilitative services and case management services provided under Medicaid to improve the health and welfare of the nation's most vulnerable seniors and children.

S. 1359

At the request of Mr. BOND, his name was added as a cosponsor of S. 1359, a bill to provide United States citizenship for children adopted from outside the United States, and for other purposes.

S. 2786

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2786, a bill to amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice,

to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes.

S. 2971

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2971, a bill to authorize certain authorities by the Department of State, and for other purposes.

S. 2979

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2979, a bill to amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, and for other purposes.

S. RES. 414

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Florida (Mr. NELSON), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. Res. 414, a resolution expressing the Sense of the Senate on the recovery, rehabilitation, and rebuilding of Haiti following the humanitarian crisis caused by the January 12, 2010, earthquake in Haiti.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWN, of Ohio:

S. 3007. A bill to amend the Internal Revenue Code of 1986 to impose a 50 percent tax on bonuses paid by TARP recipients, and for other purposes; to the Committee on Finance.

Mr. BROWN of Ohio. Mr. President, in the years leading up to the financial crisis, risky and reckless bonus-laden pay packages ruled at Wall Street banks.

After crashing our economy, these too-big-to-fail banks needed the Bush administration and the American taxpayer to bail them out.

The Temporary Asset Relief Program, TARP, pumped billions and billions of taxpayer dollars into the financial system to stabilize our economy and prevent another Great Depression.

The Obama administration continued the TARP program while also taking necessary and swift action passing the Recovery Act.

But unemployment remains high even as our economy begins to recover, and Wall Street is back to its old ways.

Insurance giant AIG got \$182.3 billion in bailout money. Last Wednesday, AIG paid \$100 million more in bonuses to its employees.

Goldman Sachs got \$10 billion directly from TARP and another \$12.9 billion in taxpayer aid through the AIG bailout. Goldman will pay its employees bonuses worth \$16 billion.

The average banker at Bank of America got a \$400,000 bonus one year after

the bank took \$45 billion from TARP. The average worker in Ohio makes just over \$41,000 a year.

The Federal Reserve has taken extraordinary steps and made trillions of dollars available in low-interest loans to American banks. Fannie Mae and Freddie Mac are just about the only buyers today for mortgages in the secondary market.

Big banks received hundreds of billions of dollars from U.S. taxpayers in half a dozen ways to stabilize their finances and increase financing to businesses and consumers.

Our economy is reliant on small businesses, which account for more than 65 percent of jobs created in our Nation.

But despite the banks' rapid recovery, their small business lending continues to decrease, month after month.

In November 2009, the U.S. Treasury Department reported that the 22 largest financial institutions receiving taxpayer assistance reduced lending by \$10.5 billion over the previous six months.

These same banks reduced small business loans by another \$1 billion according to a report released in December 2009.

I have heard from too many small business owners—from Youngstown to Mansfield, from Athens to Elyria—that they simply can't access the credit they need to hire workers or expand business.

For 10 years wealthy bankers were partying like it was 1999. When the economy came crashing down the middle class was forced to sacrifice their money and their children's money to save the banks and unfreeze credit. They are still waiting for Wall Street to live up to their end of the bargain.

That is why today I introduced The Wall Street Bonus Tax Act, which would use Wall Street's excess to fund small businesses.

The Wall Street Bonus Tax Act imposes a 50 percent excise tax for 2010 on bonuses awarded at financial institutions that received TARP assistance.

The revenue generated by the tax would go to the Small Business Administration to implement a direct small business lending program to help small businesses in towns like Bucyrus and Dublin.

Wall Street's lavish bonuses were made possible by the taxpayers' money—money that was supposed to be lent to businesses.

Instead of patting themselves on the back, the banks should be making loans that help the middle class recover.

This bill is a critical step in that direction.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3009. A bill to require the Secretary of the Treasury to mint coins in recognition of and to commemorate the 1863 Invasion of Pennsylvania, the Battle of Gettysburg, and President Abraham Lincoln's Gettysburg Ad-

dress; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SPECTER. Mr. President, today, I have sought recognition to offer legislation supporting the 150th anniversary of the Battle of Gettysburg. This legislation will serve to commemorate three historic events in our country: the 1863 Invasion of Pennsylvania, the decisive Battle of Gettysburg, and President Lincoln's famous Gettysburg Address.

On November 19, 1863, President Abraham Lincoln chose Gettysburg for his most famous address because the battle was the turning point of the Civil War. The safety and security of Pennsylvania's capital, railroads, industries, and citizens were at stake. The resulting Battle of Gettysburg was the largest and costliest of the Civil War and of the country to date with 51,000 Union and Confederate casualties. Soldiers from the U.S. Regular Army and volunteer units from Pennsylvania, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Ohio, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin served during this campaign and battle. Their sacrifices should not be forgotten.

This legislation will authorize the Secretary of the Treasury to mint and issue commemorative Gettysburg coins in three denominations: \$5 gold, \$1 silver, and half-dollar silver. These coins will only be distributed during the calendar year of 2013, the 150th anniversary of Gettysburg, and will have surcharges of \$35, \$10, and \$5 respectively. The revenue generated from these surcharges will be divided between the Gettysburg Foundation and the Army Heritage Center Foundation to help finance their respective nonprofit programs dedicated to supporting the hundreds of thousands of visitors who walk the Gettysburg grounds each year and to preserve the memory of those who served and the history that they made.

These two foundations are non-governmental, member-based, and publicly supported nonprofit organizations that are dependent on funds from members, donations, and grants for support. The foundations use such support to help create and sustain the Gettysburg National Military Park and the Army Heritage and Education Center. The Gettysburg Foundation is recognized as the official partner of Gettysburg National Military Park and the Army Heritage Center Foundation is recognized by the Secretary of the Army as the lead agency supporting the development of the Army Heritage and Education Center.

The Gettysburg Act will greatly benefit our nation by preserving this historic battle ground for countless visitors from across the nation and from around the world. It will help fund battlefield preservation and rehabilitation

projects at Gettysburg National Military Park by restoring approximately 27 acres of battlefield to its 1863 appearance. This act will help preserve the hallowedness of the ground by relocating 12 monuments to their original locations, where the veterans themselves placed these monuments several generations ago. Visitors to Gettysburg will benefit from increased educational programming at both the Army Heritage and Education Center and the Gettysburg Battle Visitor Center as the act helps facilitate the continued expansion of the Army Heritage and Education Center and construction of the Army Heritage Museum, both of which are dedicated "to telling the Army story . . . one Soldier at a time."

The importance of the 1863 Campaign in Pennsylvania, the Battle of Gettysburg, and Lincoln's address stretch well beyond the Commonwealth of Pennsylvania and stand as an enduring reminder of how our nation was reborn out of the Civil War as a stronger Union more dedicated to its ideals of freedom and liberty. I urge each of my colleagues to join Senator CASEY and myself in supporting this legislation.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 415—CALLING FOR A RENEWED FOCUS ON THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN'S VIOLATIONS OF INTERNATIONALLY-RECOGNIZED HUMAN RIGHTS AS FOUND IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Mr. CASEY (for himself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. KAUFMAN, Mr. LEVIN, and Mr. KERRY) submitted the following resolution, which was considered and agreed to:

S. RES. 415

Whereas the Government of the Islamic Republic of Iran has violated international standards for human rights by using violence to disperse peaceful assemblies by its own citizens;

Whereas the Government of the Islamic Republic of Iran suppressed peaceful commemorations by members of Iran's Green Movement at the anniversary of Iran's Islamic revolution on February 11, 2010;

Whereas the Government of the Islamic Republic of Iran's sustained campaign of violence against Iranian citizens who have peacefully protested the irregularities in the flawed Iranian presidential elections of June 12, 2009 has demonstrated to the world that the present Iranian regime is fully capable of widespread violence against its own citizens;

Whereas the Government of the Islamic Republic of Iran currently has 65 journalists and bloggers imprisoned, more than any single country in the world, according to Reporters Without Borders and in the past week arrested 10 journalists;

Whereas the Government of the Islamic Republic of Iran has restricted access to the internet, including its recent announcement to permanently block Google's Gmail service;

Whereas Iranian citizens' right to due process has been violated, with the judiciary detaining government critics and religious

minorities, and ordering executions of peaceful demonstrators;

Whereas the use of arbitrary detention and the infliction of cruel and degrading punishments by the Iranian authorities are in direct violation of Articles 7, 9 and 10 of the International Covenant on Civil and Political Rights (ICCPR) as well as Articles 22 (the right to human dignity), 36 (Sentencing in accordance with the law), 38 (prohibition of torture) and 39 (the rights of arrested persons) of the Iranian Constitution.

*Resolved*, That the Senate of the United States:

(1) Pays tribute to the courageous advocates for democracy and human rights in the Islamic Republic of Iran who are engaged in peaceful efforts to encourage democratic reform;

(2) notes that it is the right of the people of the Islamic Republic of Iran to peacefully assemble and to express their opinions and aspirations without intimidation, repression, and violence;

(3) supports freedom of speech in the Islamic Republic of Iran as elsewhere and the ability of journalists and bloggers to report without repression by government authorities;

(4) desires that the men and women of Iran be able to enjoy due process in the Iranian judicial system including the right to a fair trial;

(5) expresses serious concern over the Government of the Islamic Republic of Iran's brutal suppression of its citizens through censorship, imprisonment, and continued acts of violence;

(6) denounces the atmosphere of impunity in the Islamic Republic of Iran for those who employ intimidation, harassment, or violence to restrict and suppress freedom of speech, freedom of expression, freedom of assembly, and freedom of the press;

(7) urges the Government of the Islamic Republic of Iran to fully observe the ICCPR, which has been ratified by the Islamic Republic of Iran and states, "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

(8) calls upon the Islamic Republic of Iran to abide by the resolutions adopted by the U.N. General Assembly, in particular the resolution on the situation of human rights in the Islamic Republic of Iran of December 2009;

(9) communicates deep concern that, despite the Islamic Republic of Iran's standing invitation to all thematic special procedures mandate holders, it has not fulfilled any requests from those special mechanisms to visit the country in four years and has not answered numerous communications from those special mechanisms, and strongly urges the Government of the Islamic Republic of Iran to fully cooperate with the special mechanisms, especially the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances;

(10) encourages the U.N. Human Rights Council to fully examine these issues during its Universal Periodic Review of the Islamic Republic of Iran on February 15, 2010.

#### SENATE RESOLUTION 416—AMENDING THE STANDING RULES OF THE SENATE TO PROVIDE FOR CLOTURE TO BE INVOKED WITH LESS THAN A THREE-FIFTHS MAJORITY AFTER ADDITIONAL DEBATE

Mr. HARKIN (for himself, Mrs. SHAHEEN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 416

*Resolved*,

#### SECTION 1. SENATE CLOTURE MODIFICATION.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. (a) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yeand-nay vote the question: 'Is it the sense of the Senate that the debate shall be brought to a close?' And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The thirty hours may be increased by the adoption of a motion, decided without

debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

"Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

"After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

"(b)(1) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent motions to bring debate to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent cloture motions on any measure, motion, or other matter pending before the Senate, except by unanimous consent, until the previous motion has been disposed of.

"(2) Such subsequent motions shall be made in the manner provided by, and subject to the provisions of, subparagraph (a), except that the affirmative vote required to bring to a close debate upon that measure, motion, or other matter, or unfinished business (other than a measure or motion to amend Senate rules) shall be reduced by three votes on the second such motion, and by three additional votes on each succeeding motion, until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn. The required vote shall then be an affirmative vote of a majority of the Senators duly chosen and sworn. The requirement of an affirmative vote of a majority of the Senators duly chosen and sworn shall not be further reduced upon any vote taken on any later motion made pursuant to this subparagraph with respect to that measure, motion, matter, or unfinished business."

Mr. HARKIN. Mr. President, this past week, New York Times columnist Gail Collins noted that "Washington was immobilized by snow on Friday. This is highly unusual. Normally, Washington is immobilized by senators."

Sadly, Gail Collins is right. The unprecedented abuse of Senate rules by Republicans has overwhelmed the legislative process. The same week that Washington saw a large snow storm

shut down the city and close the Federal Government, we saw the unprecedented action of a minority blocking Senate confirmation of every single executive branch nominee. Last week, we saw Republicans require the Senate to debate for 30 hours one Department of Labor nominee in lieu of conducting other business and I use the term "debate" generously since during that time one Member spoke in opposition to her confirmation. This Congress, we have seen the minority require the Senate clerk to read lengthy bills out loud. And, most significantly, the minority has used the filibuster at an unheard of level in the history of this body.

The U.S. Senate cannot continue to function this way. That is why today I am introducing a bill to change the Standing Rules of the Senate to reform the cloture procedure in the U.S. Senate. I am introducing this bill as a member of the majority party in the Senate. I note, however, that this bill is identical to the one I first introduced in 1995, when I was a member of the minority party in the Senate. So this legislation is not about one party or the other gaining an advantage. It is about the Senate as an institution operating more fairly, effectively, and democratically.

I will explain the details of my proposal shortly. But first I would like to provide some historical background.

In 1995, for the first time in 8 years I found myself a member of the minority party in the Senate. At the beginning of that Congress, although Republicans outnumbered Democrats 53 to 47, I introduced legislation to change the Senate rules regarding the filibuster. My plan would have ensured ample debate and deliberation—the original purpose of the filibuster—but it would have allowed a bill, over time, to be passed by a simple majority vote. Unfortunately, my proposal did not pass.

In the intervening years, it has become even more apparent that for our government to properly function, we must reform and curb the use of the filibuster.

I readily acknowledge, changing the Senate rules is a tall order; and my goal is not to change the rules halfway through the 111th Congress. Instead, it is to lay down a marker and to focus attention on the unprecedented level of obstruction that occurs in the Senate today. The sad reality is that, today, because of the promiscuous use of the filibuster, the ability of our government to legislate and to address problems is severely jeopardized.

The filibuster was once an extraordinary tool used in the rarest of instances. When many people think of the filibuster they think of the climax of the classic film "Mr. Smith Goes to Washington," when Jimmy Stewart's character singlehandedly uses a filibuster to stop a corrupt piece of legislation favored by special interests.

The reality is that in 1939, the year "Mr. Smith Goes to Washington" was

filmed, there were zero filibusters in this body. In the 1950s, there was an average of just one filibuster per Congress.

Yet, over the past half century, the use of this device has grown exponentially. The concerns I raise today are not new. The problem, however, has become far more serious.

In 1982, my good friend and colleague Senator Dale Bumpers of Arkansas said this about procedures like the filibuster:

Unless we recognize that things are out of control and procedures have to be changed, we'll never be an effective legislative body again.

During the 2 years of that Congress, the 97th, there were 31 filibusters, as measured by the number of cloture motions filed.

In 1985, former Senator Thomas Eagleton of Missouri remarked:

The Senate is now in the state of incipient anarchy. The filibuster, once used, by and large, as an occasional exercise in civil rights matters, has now become a routine frolic in almost all matters. Whereas our rules were devised to guarantee full and free debate, they now guarantee unbridled chaos.

During that Congress, the 99th, there were 40 filibusters.

In 1994, former Senator Charles Mathias of Maryland said:

Today, filibusters are far less visible but far more frequent. The filibuster has become an epidemic used whenever a coalition can find 41 votes to oppose legislation. The distinction between voting against legislation and blocking a vote, between opposing and obstructing, has nearly disappeared.

During that Congress, the 103rd, right before I first introduced legislation to modify the filibuster, there were 80 filibusters.

Remarkably, from 1995 through 2008, the number of filibusters per Congress has increased 75 percent. In the last Congress, the 110th Congress, there were an astonishing 139 motions to end filibusters.

In the current 111th Congress, now near its midpoint, there have been 74. Last year alone, in one year—2009—there were 67 filibusters. In just 1 year, Republicans tripled the amount of filibusters that occurred in the entire 20-year period between 1950 and 1969.

I would also point out that, according to a study by UCLA Professor Barbara Sinclair, in the 1960s, just 8 percent of major bills were subject to a filibuster. In the last Congress, 70 percent of major bills were targeted.

The simple fact is that, today, rather than an unusual event, the filibuster, or the threat of a filibuster, has become a routine occurrence. Let me repeat these figures. In the 1950s, an average of one bill was filibustered in each Congress. In the 104th Congress, when Democrats were in the minority, there were 82 filibusters. In the last Congress, 139 bills were filibustered. In the current Congress, there have already been 74 filibusters.

What was once a procedure used very rarely and judiciously has become an almost daily procedure used routinely and often recklessly.

A quarter century ago, faced with 40 filibusters in the course of one Congress, Senator Eagleton remarked that the Senate was in a situation of “unbridled chaos.”

Sixteen years ago, faced with 80 filibusters in one Congress, Senator Matthias warned that the Senate was facing an “epidemic.”

In this Congress, we are on pace to far surpass those earlier numbers. At the current pace, we will face approximately 140 filibusters in the 111th Congress. It is no accident that Norm Ornstein, the esteemed Congressional scholar, wrote an article in 2008 titled “Our Broken Senate.”

And, it is not just scholars. Editorials throughout the country have recognized that the use of the filibuster must be changed. The Newark Star-Ledger called the filibuster a “rule that cripples our democracy.” The San Jose Mercury News recently noted that the “Senate’s abuse of filibuster rule threatens democracy.” The Sacramento Bee wrote that it is “time to bust up [the] filibuster.”

The extraordinary number of filibusters by Republicans are not just statistics. Behind each filibuster is an attempt by Republicans to block the majority from passing legislation and confirming nominees to help everyday working Americans.

In the 71 years since Hollywood filmed “Mr. Smith Goes to Washington,” the aim of the filibuster has been turned completely upside down. Seven decades ago, Jimmy Stewart, “Senator Smith,” was the little guy using the filibuster to battle the special interests. Today, it is the special interests that are using the filibuster to kill legislation that would benefit the little guy.

What is particularly striking, moreover, is not just the sheer number of filibusters today. It is the fact that this once rare tactic—what was once a dramatic challenge to majority rule only used in extraordinary circumstances—is now used or threatened to be used on virtually every measure and every nominee. To quote Norm Ornstein:

The Senate has taken the term “deliberative” to a new level, slowing not just contentious legislation but also bills that have overwhelming support.

For example, late last year, the Republicans filibustered a motion to proceed to the Defense Appropriations bill for the sole purpose to delay a vote on health care reform. In other words, Republicans risked denying our troops the resources they need at a time of war for no other purpose than to delay the Senate. After a filibuster and delay, the bill passed 88 to 10.

The Republicans filibustered a motion to proceed to a bill to extend unemployment compensation. After delaying and then grinding Senate business to a halt, the bill passed 97 to 1. In other words, Republicans filibustered a bill they fully intended to support, simply in order to stall or stop business in the Senate.

Similarly, the Republicans filibustered the agriculture appropriations bill that funded key agriculture, conservation, and nutrition programs. That bill passed 84 to 11.

The Republicans filibustered the Credit Card Holders Bill of Rights. That bill passed 92 to 2.

The Republicans filibustered the Fraud Enforcement and Recovery Act. That bill passed 84 to 4.

As the Defense Appropriations bill and unemployment compensation bill examples show, in many cases Republicans have filibustered motions to proceed. This is truly remarkable. In fact, last Congress there were over 50 filibusters of motions to proceed to consider bills. Republicans filibustered efforts for this body to consider efforts to provide low-income home energy assistance, efforts to strengthen the Consumer Product Safety Commission to ensure our children are not exposed to unsafe toys, and efforts to ensure women are guaranteed equal pay for equal work. In all of these cases and many others, Republicans objected to this body even bringing up for debate and deliberation important issues that matter to the American people.

There is absolutely no purpose to filibuster a motion to proceed except delay and obstruction. If one does not like a piece of legislation, one has an opportunity to offer amendments to try to improve the measure. But one cannot do that if the Senate is prevented from even considering a bill.

One of the most striking features of the abuse of this extraordinary tool by Republicans is how quickly it has become accepted that literally any legislation needs 60 votes to pass the Senate. If 41 senators do not like a bill, it does not get a vote. Newspapers and pundits regularly pronounce that 60 votes are “needed to pass the bill”, even as we all know, only 51 Senators are, in fact, needed.

So accepted is this extraordinary abuse by the minority, that after the most recent election in Massachusetts, the media regularly pronounced that Democrats going from a 20-seat majority to an 18-seat majority was the equivalent to losing majority status. A Philadelphia Metro newspaper headline asked: “How will Dems recover after losing majority?” CNN reported: “Brown’s election tips Senate balance of power to GOP.” The New York Times reported that “Brown’s Senate win has cost them their razor-thin advantage.” One paper, the Village Voice, even wrote satirically, “Scott Brown wins Mass. Race, Giving GOP 41–59 Majority in the Senate.” When the rules are abused in such a manner that a majority of 18 seats is now treated as the equivalent to being in the minority, it is time to change the rules.

This is not how it is supposed to be. To be sure, the Founders put in place a system of checks and balances that made it difficult to enact legislation. A bill must pass in both Houses of Congress. It is then subject to the Presi-

dent’s veto power. A law can be challenged in court. These are all very significant checks.

What was never intended, however, was that a supermajority of 60 votes would be needed to enact virtually any piece of legislation. Indeed, the Framers of the Constitution were very clear about circumstances where a supermajority is required. There were only five: ratification of a treaty, override of a veto, votes of impeachment, passage of a constitutional amendment, and the expulsion of a Member.

James Madison specifically rejected the idea that more than a majority would be needed for decisions. Responding to anti-Federalist arguments that the Constitution should have required more than a majority, Madison argued that such rules would lead to minority rule, something inconsistent with fundamental republican principles. As he wrote in Federalist No. 58:

That some advantages might have resulted from such a precaution, cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule; the power would be transferred to the minority.

James Madison would be appalled by the current abuse of the filibuster to impose minority rule.

Proponents of the filibuster regularly quote the oft told story of George Washington’s description of the Senate to Thomas Jefferson. Jefferson had returned from France and was breakfasting with Washington. Jefferson asked Washington why he agreed to have a Senate. “Why,” asked Washington, “did you just now pour that coffee into your saucer before drinking it?” “To cool it,” said Jefferson. “Even so,” said Washington, “we pour our legislation into the Senatorial saucer to cool it.”

As one author recently noted, however, the increasing use of the filibuster has converted the Senate from the “saucer” George Washington intended, in which scalding ideas from the more passionate House of Representatives might “cool” into a “deep freeze and a dead weight.”

At issue is a fundamental principle of our democracy—rule of the majority in a legislative body. As Alexander Hamilton noted in the Federalist Papers, “The fundamental maxim of republican government . . . requires that the sense of the majority should prevail.”

Mr. President, elections should have consequences. My feeling in 1995 was that if the Nation elects a majority of Republicans to the Senate, as it did, then after the minority has an opportunity to make its case, the majority should prevail. And, it should be the same when the people send a majority

of Democrats to the Senate. If the people do not like how the majority is governing, then they have the ability to change the composition of the Senate at the next election.

Fifteen months ago, a sizable majority of voters sent Democrats to Washington to implement real change and reform. It is no surprise that people are now frustrated. Largely, because of the filibuster their hopes for change have been frustrated. Instead, the public sees nothing but gridlock.

Because of Senate rules, a minority as small as one Senator can block action by the majority. Even when a party is resoundingly repudiated at the polls, that party retains the power, thanks to the filibuster, to prevent the majority from legislating and effectively governing. Regrettably, the filibuster has become a bludgeon that the minority uses to thwart the will of the majority, to mire the Senate in procedural impasses and repeatedly to hold the entire Senate hostage for extended periods of time. Today, even simple, noncontroversial bills and nominations are not permitted to come to a vote. This is wrong. As a result of the filibuster, the legislative process itself has been overwhelmed.

The legislation I introduce today would amend the Standing Rules of the Senate to permit a decreasing majority of Senators to invoke cloture on a given matter. On the first cloture vote, 60 votes would be needed to end debate. If the motion does not get 60 votes, a Senator can file another cloture motion and two days later have another vote; that vote would require 57 votes to end debate. If cloture is not obtained, a Senator can file another cloture motion and wait two more days; in that vote, 54 votes would be required to end debate. If cloture is still not obtained, a Senator could file one more cloture motion, wait 2 more days, and—at that point—just 51 votes would be needed to move to the merits of the bill.

Let me be clear, this proposal has absolutely nothing to do with limiting minority rights. Under this proposal, a determined minority could slow down any bill. In this way, proper deliberation is ensured. Senators would have ample time to make their arguments and attempt to persuade the public and a majority of colleagues. However, a minority of members would no longer be able to stymie the majority by grinding the Senate to a halt, as sadly too regularly happens today.

Mr. President, this is hardly radical legislation. There are currently numerous rules and laws that forbid the filibuster in numerous circumstances. For example, we cannot filibuster a federal budget resolution. We cannot filibuster a resolution authorizing the use of force. We cannot filibuster international trade agreements. We cannot filibuster a reconciliation bill.

Reform of the filibuster should not be a Democrat or Republican issue. Indeed, it was the former Republican Ma-

jority Leader Bill Frist who said when he nearly shut this body down over the use of filibusters: "This filibuster is nothing less than a formula for tyranny by the minority."

A majority in this body—whether Democratic Senators, Republican Senators, or a bipartisan coalition of Senators—should be allowed to work its will. When a given party wins the Presidency and both houses of Congress by significant margins, that party should be allowed to carry out its agenda, and then should be held accountable in the next election.

But, I do not see how we can effectively govern a 21st century superpower when a minority of just 41 senators can dictate action—or inaction—not just to the majority of senators but to a majority of the American people. This is all the more true when you consider that those 41 senators could come from small states and represent as little as 15 percent of the American population. This is not democratic. Certainly, it is not the kind of democracy envisioned and intended by our Founders. Instead, it is a sure-fire formula for national paralysis, drift, and decline.

I urge my colleagues to join me in restoring the best traditions of the United States Senate, a legislative body committed to debate and deliberation, but also one guided by our Founders' bedrock democratic principles of majority rule.

Mr. DURBIN. Would the Senator from Iowa yield?

Mr. HARKIN. Yes.

Mr. DURBIN. Mr. President, I ask unanimous consent to be added as a cosponsor on this bill.

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

#### SENATE RESOLUTION 417—SUPPORTING THE GOALS AND IDEALS OF NATIONAL ENGINEERS WEEK, AND FOR OTHER PURPOSES

Mr. KAUFMAN (for himself, Ms. COLLINS, Mr. BINGAMAN, and Mrs. GILLIBRAND) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

##### S. RES. 417

Whereas engineers use their professional, scientific, and technical knowledge and skills in creative and innovative ways to fulfill the needs of society;

Whereas engineers have helped to address the major technological and infrastructural challenges of our time, including providing water, defending the Nation, and developing clean energy technologies that are needed to power the American people into the future;

Whereas engineers are a crucial link in research, development, and the transformation of scientific discoveries into useful products and jobs, as the people of the United States look more than ever to engineers and their imagination, knowledge, and analytical skills to meet the challenges of the future;

Whereas engineers play a crucial role in developing the consensus engineering stand-

ards that promote global collaboration and support reliable infrastructures;

Whereas the sponsors of National Engineers Week are working together to transform the engineering workforce through greater inclusion of women and underrepresented minorities;

Whereas the 2009 National Academy of Engineering and National Research Council report entitled "Engineering in K-12 Education" highlighted the potential role for engineering in primary and secondary education as a method to improve learning and achievement in science and mathematics, increase awareness of engineering and the work of engineers, help students understand and engage in engineering design, build interest in pursuing engineering as a career, and increase technological literacy;

Whereas an increasing number of the approximately 1,500,000 engineers in the United States are nearing retirement;

Whereas National Engineers Week has developed into a formal coalition of more than 100 professional societies, major corporations, and government agencies that are dedicated to ensuring a diverse and well-educated engineering workforce, promoting literacy in science, technology, engineering, and math, and raising public awareness and appreciation of the contributions of engineers to society;

Whereas National Engineers Week is celebrated during the week of George Washington's birthday to honor the contributions that the first President, who was both a military engineer and a land surveyor, made to engineering; and

Whereas February 14, 2010, to February 20, 2010, has been designated as National Engineers Week by the National Engineers Week Foundation and its coalition members: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of National Engineers Week to increase understanding of and interest in engineering careers and to promote technological literacy and engineering education; and

(2) continues to work with the engineering community to ensure that the creativity and contributions made by engineers can be expressed through research, development, standardization, and innovation.

Mr. KAUFMAN. Mr. President, I rise today to support the goals and ideals of National Engineers Week, which will be celebrated next week from February 14 to February 20.

As the only serving Senator who has worked as an engineer, I am proud to sponsor resolution acknowledging the essential role engineers play and the important work they do.

I would also like to thank Senators COLLINS, BINGAMAN, and GILLIBRAND for joining me in introducing this resolution.

Just as importantly, I would like to acknowledge the leadership of Congressman LIPINSKI of Illinois, who for many years has been introducing this resolution in the House of Representatives. I know he plans to do the same again this year when our local weather will permit it.

Launched in 1951 by the National Society of Professional Engineers, National Engineers Week began as a way to call attention to the immense contributions engineers make to society.

It is also a time to emphasize the importance of learning science, technology, engineering, and mathematics

skills—something I have spoken about many times on this floor.

Since its inception, the support for National Engineers Week has grown significantly.

This year, nearly 100 professional societies, major corporations, and government agencies are working together with the National Engineers Week Foundation to bring attention to this important program.

If we hope to encourage more young people to pursue engineering—to help us tackle issues of health, safety, and energy—it is absolutely critical that we teach them what engineering is all about.

National Engineers Week brings 50,000 engineering volunteers into classrooms to teach students that engineering can be fun, that engineers make a difference, and that anyone can become an engineer.

It is especially important that we get this message out to girls, women, and many minorities who are underrepresented in engineering careers. We will all benefit from greater diversity in STEM fields.

I believe that encouraging a new generation of engineers is vital to continuing our economic recovery.

Engineers have always been our country's problem solvers and it is fitting that we celebrate National Engineers Week in conjunction with the birthday of President George Washington—one of our Nation's first engineers.

I wish to thank my colleagues for joining with me in supporting this important week.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3310. Mr. REID proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 3311. Mr. REID proposed an amendment to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, *supra*.

SA 3312. Mr. REID proposed an amendment to the bill H.R. 2847, *supra*.

SA 3313. Mr. REID proposed an amendment to the bill H.R. 2847, *supra*.

SA 3314. Mr. REID proposed an amendment to amendment SA 3313 proposed by Mr. REID to the bill H.R. 2847, *supra*.

#### TEXT OF AMENDMENTS

**SA 3310.** Mr. REID proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the amendment of the Senate insert the following:

##### SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Hiring Incentives to Restore Employment Act”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

##### TITLE I—INCENTIVES FOR HIRING AND RETAINING UNEMPLOYED WORKERS

Sec. 101. Payroll tax forgiveness for hiring unemployed workers.

Sec. 102. Business credit for retention of certain newly hired individuals in 2010.

##### TITLE II—EXPENSING

Sec. 201. Increase in expensing of certain depreciable business assets.

##### TITLE III—QUALIFIED TAX CREDIT BONDS

Sec. 301. Issuer allowed refundable credit for certain qualified tax credit bonds.

##### TITLE IV—EXTENSION OF CURRENT SURFACE TRANSPORTATION PROGRAMS

Sec. 401. Short title.

##### Subtitle A—Federal-Aid Highways

Sec. 411. In general.

Sec. 412. Administrative expenses.

Sec. 413. Rescission of unobligated balances.

Sec. 414. Reconciliation of funds.

Subtitle B—National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs

Sec. 421. Extension of National Highway Traffic Safety Administration Highway Safety Programs.

Sec. 422. Extension of Federal Motor Carrier Safety Administration Programs.

Sec. 423. Additional programs.

##### Subtitle C—Public Transportation Programs

Sec. 431. Allocation of funds for planning programs.

Sec. 432. Special rule for urbanized area formula grants.

Sec. 433. Allocating amounts for capital investment grants.

Sec. 434. Apportionment of formula grants for other than urbanized areas.

Sec. 435. Apportionment based on fixed guideway factors.

Sec. 436. Authorizations for public transportation.

Sec. 437. Amendments to SAFETEA-LU.

##### Subtitle D—Revenue Provisions

Sec. 441. Repeal of provision prohibiting the crediting of interest to the Highway Trust Fund.

Sec. 442. Restoration of certain foregone interest to Highway Trust Fund.

Sec. 443. Treatment of certain amounts appropriated to Highway Trust Fund.

Sec. 444. Termination of transfers from highway trust fund for certain repayments and credits.

Sec. 445. Extension of authority for expenditures.

Sec. 446. Level of obligation limitations.

##### TITLE V—OFFSET PROVISIONS

##### Subtitle A—Foreign Account Tax Compliance

##### PART I—INCREASED DISCLOSURE OF BENEFICIAL OWNERS

Sec. 501. Reporting on certain foreign accounts.

Sec. 502. Repeal of certain foreign exceptions to registered bond requirements.

##### PART II—UNDER REPORTING WITH RESPECT TO FOREIGN ASSETS

Sec. 511. Disclosure of information with respect to foreign financial assets.

Sec. 512. Penalties for underpayments attributable to undisclosed foreign financial assets.

Sec. 513. Modification of statute of limitations for significant omission of income in connection with foreign assets.

##### PART III—OTHER DISCLOSURE PROVISIONS

Sec. 521. Reporting of activities with respect to passive foreign investment companies.

Sec. 522. Secretary permitted to require financial institutions to file certain returns related to withholding on foreign transfers electronically.

##### PART IV—PROVISIONS RELATED TO FOREIGN TRUSTS

Sec. 531. Clarifications with respect to foreign trusts which are treated as having a United States beneficiary.

Sec. 532. Presumption that foreign trust has United States beneficiary.

Sec. 533. Uncompensated use of trust property.

Sec. 534. Reporting requirement of United States owners of foreign trusts.

Sec. 535. Minimum penalty with respect to failure to report on certain foreign trusts.

##### PART V—SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVALENT PAYMENTS RECEIVED BY FOREIGN PERSONS TREATED AS DIVIDENDS

Sec. 541. Substitute dividends and dividend equivalent payments received by foreign persons treated as dividends.

##### Subtitle B—Delay in Application of Worldwide Allocation of Interest

Sec. 551. Delay in application of worldwide allocation of interest.

##### TITLE I—INCENTIVES FOR HIRING AND RETAINING UNEMPLOYED WORKERS

##### SEC. 101. PAYROLL TAX FORGIVENESS FOR HIRING UNEMPLOYED WORKERS.

(a) **IN GENERAL.**—Section 3111 is amended by adding at the end the following new subsection:

“(d) **SPECIAL EXEMPTION FOR CERTAIN INDIVIDUALS HIRED IN 2010.**—

“(1) **IN GENERAL.**—Subsection (a) shall not apply to wages paid by a qualified employer with respect to employment during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2010, of any qualified individual for services performed—

“(A) in a trade or business of such qualified employer, or

“(B) in the case of a qualified employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

“(2) **QUALIFIED EMPLOYER.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘qualified employer’ means any employer other than the United States, any State, or any political subdivision thereof, or any instrumentality of the foregoing.

“(B) **TREATMENT OF EMPLOYEES OF POST-SECONDARY EDUCATIONAL INSTITUTIONS.**—Notwithstanding subparagraph (A), the term ‘qualified employer’ includes any employer

which is a public institution of higher education (as defined in section 101(b) of the Higher Education Act of 1965).

“(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection, the term ‘qualified individual’ means any individual who—

“(A) begins employment with a qualified employer after February 3, 2010, and before January 1, 2011,

“(B) certifies by signed affidavit, under penalties of perjury, that such individual has not been employed for more than 40 hours during the 60-day period ending on the date such individual begins such employment,

“(C) is not employed by the qualified employer to replace another employee of such employer unless such other employee separated from employment voluntarily or for cause, and

“(D) is not an individual described in section 51(i)(1) (applied by substituting ‘qualified employer’ for ‘taxpayer’ each place it appears).

“(4) ELECTION.—A qualified employer may elect to have this subsection not apply. Such election shall be made in such manner as the Secretary may require.”

(b) COORDINATION WITH WORK OPPORTUNITY CREDIT.—Section 51(c) is amended by adding at the end the following new paragraph:

“(5) COORDINATION WITH PAYROLL TAX FORGIVENESS.—The term ‘wages’ shall not include any amount paid or incurred to a qualified individual (as defined in section 3111(d)(3)) during the 1-year period beginning on the hiring date of such individual by a qualified employer (as defined in section 3111(d)) unless such qualified employer makes an election not to have section 3111(d) apply.”

(c) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after the date of the enactment of this Act.

#### SEC. 102. BUSINESS CREDIT FOR RETENTION OF CERTAIN NEWLY HIRED INDIVIDUALS IN 2010.

(a) IN GENERAL.—In the case of any taxable year ending after the date of the enactment of this Act, the current year business credit determined under section 38(b) of the Internal Revenue Code of 1986 for such taxable year shall be increased by an amount equal to the product of—

(1) \$1,000, and

(2) the number of retained workers with respect to which subsection (b)(2) is first satisfied during such taxable year.

(b) RETAINED WORKER.—For purposes of this section, the term ‘retained worker’ means any qualified individual (as defined in section 3111(d)(3) of the Internal Revenue Code of 1986)—

(1) who was employed by the taxpayer on any date during the taxable year,

(2) who was so employed by the taxpayer for a period of not less than 52 consecutive weeks, and

(3) whose wages for such employment during the last 26 weeks of such period equaled at least 80 percent of such wages for the first 26 weeks of such period.

(c) LIMITATION ON CARRYBACKS.—No portion of the unused business credit under section 38 of the Internal Revenue Code of 1986 for any taxable year which is attributable to the increase in the current year business credit under this section may be carried to a taxable year beginning before the date of the enactment of this section.

### TITLE II—EXPENSING

#### SEC. 201. INCREASE IN EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Subsection (b) of section 179 is amended—

(1) by striking “(\$125,000 in the case of taxable years beginning after 2006 and before 2011)” in paragraph (1) and inserting “(\$250,000 in the case of taxable years beginning after 2007 and before 2011)”,

(2) by striking “(\$500,000 in the case of taxable years beginning after 2006 and before 2011)” in paragraph (2) and inserting “(\$800,000 in the case of taxable years beginning after 2007 and before 2011)”,

(3) by striking paragraphs (5) and (7), and

(4) by redesignating paragraph (6) as paragraph (5).

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

### TITLE III—QUALIFIED TAX CREDIT BONDS

#### SEC. 301. ISSUER ALLOWED REFUNDABLE CREDIT FOR CERTAIN QUALIFIED TAX CREDIT BONDS.

(a) CREDIT ALLOWED.—Section 6431 is amended by adding at the end the following new subsection:

“(f) APPLICATION OF SECTION TO CERTAIN QUALIFIED TAX CREDIT BONDS.—

“(1) IN GENERAL.—In the case of any specified tax credit bond—

“(A) such bond shall be treated as a qualified bond for purposes of this section,

“(B) subsection (a) shall be applied without regard to the requirement that the qualified bond be issued before January 1, 2011,

“(C) the amount of the payment determined under subsection (b) with respect to any interest payment date under such bond shall be—

“(i) in the case of a bond issued by a qualified small issuer, 65 percent of the amount of interest payable on such bond by such issuer with respect to such date, and

“(ii) in the case of a bond issued by any other person, 45 percent of the amount of interest payable on such bond by such issuer with respect to such date,

“(D) interest on any such bond shall be includible in gross income for purposes of this title,

“(E) no credit shall be allowed under section 54A with respect to such bond,

“(F) any payment made under subsection (b) shall not be includible as income for purposes of this title, and

“(G) the deduction otherwise allowed under this title to the issuer of such bond with respect to interest paid under such bond shall be reduced by the amount of the payment made under this section with respect to such interest.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) SPECIFIED TAX CREDIT BOND.—The term ‘specified tax credit bond’ means any qualified tax credit bond (as defined in section 54A(d)) if—

“(i) such bond is—

“(I) a new clean renewable energy bond (as defined in section 54C),

“(II) a qualified energy conservation bond (as defined in section 54D),

“(III) a qualified zone academy bond (as defined in section 54E), or

“(IV) a qualified school construction bond (as defined in section 54F), and

“(ii) the issuer of such bond makes an irrevocable election to have this subsection apply

“(B) QUALIFIED SMALL ISSUER.—The term ‘qualified small issuer’ means, with respect to any calendar year, any issuer who is not reasonably expected to issue tax-exempt bonds (other than private activity bonds) and specified tax credit bonds (determined without regard to whether an election is made under this subsection) during such calendar year in an aggregate face amount exceeding \$30,000,000.”

(b) TECHNICAL CORRECTIONS RELATING TO QUALIFIED SCHOOL CONSTRUCTION BONDS.—

(1) The second sentence of section 54F(d)(1) is amended by striking “by the State” and inserting “by the State education agency (or such other agency as is authorized under State law to make such allocation)”.

(2) The second sentence of section 54F(e) is amended by striking “subsection (d)(4)” and inserting “paragraphs (2) and (4) of subsection (d)”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (b) shall take effect as if included in section 1521 of the American Recovery and Reinvestment Tax Act of 2009.

### TITLE IV—EXTENSION OF CURRENT SURFACE TRANSPORTATION PROGRAMS

#### SEC. 401. SHORT TITLE.

This title may be cited as the “Surface Transportation Extension Act of 2010”

#### Subtitle A—Federal-Aid Highways

#### SEC. 411. IN GENERAL.

(a) IN GENERAL.—Except as provided in this Act, requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under titles I, V, and VI of the SAFETEA-LU (119 Stat. 1144), the SAFETEA-LU Technical Corrections Act of 2008 (122 Stat. 1572), titles I and VI of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1914), titles I and V of the Transportation Equity Act for the 21st Century (112 Stat. 107), and title 23, United States Code (excluding chapter 4 of that title), which would otherwise expire on or cease to apply after September 30, 2009, or the date specified in section 106(3) of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), are incorporated by reference and shall continue in effect until December 31, 2010.

(b) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in section 412, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account)—

(1) for fiscal year 2010, a sum equal to the total amount authorized to be appropriated out of the Highway Trust Fund for programs, projects, and activities for fiscal year 2009 under titles I, V, and VI of the SAFETEA-LU (119 Stat. 1144), and title 23, United States Code (excluding chapter 4 of that title); and

(2) for the period beginning on October 1, 2010, and ending on December 31, 2010, a sum equal to 1/4 of the total amount authorized to be appropriated out of the Highway Trust Fund for programs, projects, and activities for fiscal year 2009 under titles I, V, and VI of the SAFETEA-LU (119 Stat. 1144), and title 23, United States Code (excluding chapter 4 of that title).

(c) USE OF FUNDS.—

(1) FISCAL YEAR 2010.—Except as otherwise expressly provided in this Act, funds authorized to be appropriated under subsection (b)(1) for fiscal year 2010 shall be distributed, administered, limited, and made available

for obligation in the same manner and at the same level as funds authorized to be appropriated out of the Highway Trust Fund for fiscal year 2009 to carry out programs, projects, activities, eligibilities, and requirements under the SAFETEA-LU (119 Stat. 1144), the SAFETEA-LU Technical Corrections Act of 2008 (122 Stat. 1572), titles I and VI of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1914), titles I and V of the Transportation Equity Act for the 21st Century (112 Stat. 107), and title 23, United States Code (excluding chapter 4 of that title).

(2) FISCAL YEAR 2011.—Except as otherwise expressly provided in this Act, funds authorized to be appropriated under subsection (b)(2) for the period beginning on October 1, 2010, and ending on December 31, 2010, shall be distributed, administered, limited, and made available for obligation in the same manner and at the same level as 1/4 of the total amount of funds authorized to be appropriated out of the Highway Trust Fund for fiscal year 2009 to carry out programs, projects, activities, eligibilities, and requirements under the SAFETEA-LU (119 Stat. 1144), the SAFETEA-LU Technical Corrections Act of 2008 (122 Stat. 1572), titles I and VI of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1914), titles I and V of the Transportation Equity Act for the 21st Century (112 Stat. 107), and title 23, United States Code (excluding chapter 4 of that title).

(3) CALCULATION.—The amounts authorized to be appropriated under subsection (b) shall be calculated without regard to any rescission or cancellation of funds or contract authority for fiscal year 2009 under the SAFETEA-LU (119 Stat. 1144) or any other law.

(4) CONTRACT AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated under this section shall be available for obligation and shall be administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and—

(i) for fiscal year 2010, shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs included in an Act making appropriations for fiscal year 2010 or a portion of that fiscal year; and

(ii) for the period beginning on October 1, 2010, and ending on December 31, 2010, shall be subject to a limitation on obligations included in an Act making appropriations for fiscal year 2011 or a portion of that fiscal year, except that during such period obligations subject to such limitation shall not exceed 1/4 of the limitation on obligations included in an Act making appropriations for fiscal year 2011.

(B) EXCEPTIONS.—A limitation on obligations described in clause (i) or (ii) of subparagraph (A) shall not apply to any obligation under—

(i) section 125 of title 23, United States Code; or

(ii) section 105 of title 23, United States Code—

(I) for fiscal year 2010, only in an amount equal to \$639,000,000; and

(II) for the period beginning on October 1, 2010, and ending on December 31, 2010, only in an amount equal to \$159,750,000.

(5) CALCULATIONS FOR DISTRIBUTION OF OBLIGATION LIMITATION.—Upon enactment of an Act making appropriations for the Department of Transportation for fiscal year 2011 (other than an Act or resolution making continuing appropriations), the Secretary shall—

(A) as necessary for purposes of making the calculations for the distribution of any

obligation limitation under such Act, annualize the amount of contract authority provided under this Act for Federal-aid highways and highway safety construction programs; and

(B) multiply the resulting distribution of any obligation limitation under such Act by 1/4.

(4) EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED PROGRAMS.—

(1) FISCAL YEAR 2010.—Notwithstanding any other provision of law, for fiscal year 2010, the portion of the share of funds of a State under subsection (b)(1) determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out sections 1301, 1302, 1307, 1702, and 1934 of the SAFETEA-LU (119 Stat. 1198, 1204, 1217, 1256, and 1485), and section 144(f)(1) of title 23, United States Code, shall be—

(A) made available to the State for programs apportioned under sections 104(b) and 144 of title 23, United States Code, and in the same proportion for each such program that—

(i) the amount apportioned to the State for that program for fiscal year 2009; bears to

(ii) the amount apportioned to the State for fiscal year 2009 for all programs apportioned under such sections of such Code; and

(B) administered in the same manner and with the same period of availability as such funding is administered under programs identified in subparagraph (A), except that no funds may be used to carry out the project described in section 1307(d)(1) of the SAFETEA-LU (119 Stat. 1217; 122 Stat. 1577).

(2) FISCAL YEAR 2011.—Notwithstanding any other provision of law, for the period beginning on October 1, 2010, and ending on December 31, 2010, the portion of the share of funds of a State under subsection (b)(2) determined by 1/4 of the amount that the State received or was authorized to receive for fiscal year 2009 to carry out sections 1301, 1302, 1307, 1702, and 1934 of the SAFETEA-LU (119 Stat. 1198, 1204, 1217, 1256, and 1485) and section 144(f)(1) of title 23, United States Code, shall be—

(A) made available to the State for programs apportioned under sections 104(b) and 144 of title 23, United States Code, and in the same proportion for each such program that—

(i) the amount apportioned to the State for that program for fiscal year 2009; bears to

(ii) the amount apportioned to the State for fiscal year 2009 for all programs apportioned under such sections of such Code; and

(B) administered in the same manner and with the same period of availability as such funding is administered under programs identified in subparagraph (A), except that no funds may be used to carry out the project described in section 1307(d)(1) of the SAFETEA-LU (119 Stat. 1217; 122 Stat. 1577).

(3) TERRITORIES AND PUERTO RICO.—

(A) FISCAL YEAR 2010.—Notwithstanding any other provision of law, for fiscal year 2010, the portion of the share of funds of a territory or Puerto Rico under paragraph (b)(1) determined by the amount that the territory or Puerto Rico received or was authorized to receive for fiscal year 2009 to carry out section 1934 of SAFETEA-LU (119 Stat. 1485), shall be—

(i) for a territory, made available and administered in the same manner as funding is made available and administered under section 215 of title 23, United States Code; and

(ii) for Puerto Rico, made available and administered in the same manner as funding is made available and administered under section 165 of title 23, United States Code.

(B) FISCAL YEAR 2011.—Notwithstanding any other provision of law, for the period beginning on October 1, 2010, and ending on December 31, 2010, the portion of the share of

funds of a territory or Puerto Rico under paragraph (b)(2) determined by 1/4 of the amount that the territory or Puerto Rico received or was authorized to receive for fiscal year 2009 to carry out section 1934 of SAFETEA-LU (119 Stat. 1485), shall be—

(i) for a territory, made available and administered in the same manner as funding is made available and administered under section 215 of title 23, United States Code; and

(ii) for Puerto Rico, made available and administered in the same manner as funding is made available and administered under section 165 of title 23, United States Code.

(C) TERRITORY DEFINED.—In this paragraph, the term “territory” means any of the following territories of the United States: American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the United States Virgin Islands.

(4) ADDITIONAL FUNDS.—

(A) IN GENERAL.—No additional funds shall be provided for any project or activity under subsection (c), or paragraph (1) or (2) of this subsection, that the Secretary of Transportation determines was sufficiently funded before or during fiscal year 2009 to achieve the authorized purpose of the project or activity.

(B) RESERVATION AND REDISTRIBUTION OF FUNDS.—Funds made available in accordance with paragraph (1) or (2) of subsection (c) or paragraph (1) or (2) of this subsection for a project or activity described in subparagraph (A) shall be—

(i) reserved by the Secretary of Transportation; and

(ii) distributed to each State in accordance with paragraph (1) or (2) of subsection (c), or paragraph (1) or (2) of this subsection, as appropriate, for use in carrying out other highway projects and activities extended by subsection (c) or this subsection, in the proportion that—

(I) the total amount of funds made available for fiscal year 2009 for projects and activities described in subparagraph (A) in the State; bears to

(II) the total amount of funds made available for fiscal year 2009 for those projects and activities in all States.

(e) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA-LU.—

(1) IN GENERAL.—The programs authorized under paragraphs (1) through (5) of section 5101(a) of the SAFETEA-LU (119 Stat. 1779) shall be continued—

(A) for fiscal year 2010, at the funding levels authorized for those programs for fiscal year 2009; and

(B) for the period beginning on October 1, 2010, and ending on December 31, 2010, at 1/4 the funding levels authorized for those programs for fiscal year 2009.

(2) DISTRIBUTION OF FUNDS.—Funds for programs continued under paragraph (1) shall be distributed to major program areas under those programs in the same proportions as funds were allocated for those program areas for fiscal year 2009, except that designations for specific activities shall not be required to be continued for—

(A) fiscal year 2010; or

(B) the period beginning on October 1, 2010, and ending on December 31, 2010.

(3) ADDITIONAL FUNDS.—

(A) IN GENERAL.—No additional funds shall be provided for any project or activity under this subsection that the Secretary of Transportation determines was sufficiently funded before or during fiscal year 2009 to achieve the authorized purpose of the project or activity.

(B) DISTRIBUTION.—Funds that would have been made available under paragraph (1) for a project or activity but for the prohibition under subparagraph (A) shall be distributed in accordance with paragraph (2).

**SEC. 412. ADMINISTRATIVE EXPENSES.**

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—Notwithstanding any other provision of this Act or any other law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account), from amounts provided under section 411, for administrative expenses of the Federal-aid highway program—

(1) \$422,425,000 for fiscal year 2010; and

(2) \$105,606,250 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(b) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be—

(1) available for obligation, and shall be administered, in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; and

(2) subject to a limitation on obligations for Federal-aid highways and highway safety construction programs, except that such funds shall remain available until expended.

**SEC. 413. RESCISSION OF UNOBLIGATED BALANCES.**

(a) IN GENERAL.—The Secretary of Transportation shall restore funds rescinded pursuant to section 10212 of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1937) to the States and to the programs from which the funds were rescinded.

(b) ADMINISTRATION OF FUNDS.—The restored amounts shall be administered in the same manner as the funds originally rescinded, except those funds may only be used with an obligation limitation provided in an Act making appropriations for Federal-aid highways and highway safety construction programs enacted after implementation of the rescission under section 10212 of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1937).

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 2010 to carry out this section an amount equal to the amount of funds rescinded under section 10212 of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1937).

(2) AVAILABILITY FOR OBLIGATION.—Funds authorized to be appropriated by this section shall be—

(A) made available under this section and available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall retain the characteristics of the funds originally rescinded; and

(B) subject to a limitation on obligations for Federal-aid highways and highway safety construction programs included in an Act making appropriations for fiscal year 2010 or a portion of the fiscal year.

(d) LIMITATION.—No funds authorized to be restored under this section shall be restored after the end of fiscal year 2010.

**SEC. 414. RECONCILIATION OF FUNDS.**

The Secretary shall reduce the amount apportioned or allocated for a program, project, or activity under this title by amounts apportioned or allocated pursuant to the Continuing Appropriations Resolution, 2010 (Public Law 111-68).

**Subtitle B—National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs****SEC. 421. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.**

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of the SAFETEA-LU (119 Stat. 1519) is amended—

(1) by striking “and”; and

(2) by striking “2009.” and inserting “2009, \$235,000,000 for fiscal year 2010, and \$58,750,000

for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of the SAFETEA-LU (119 Stat. 1519) is amended—

(1) by striking “and”; and

(2) by striking “2009.” and inserting “2009, \$107,329,000 for fiscal year 2010, and \$27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—

(1) EXTENSION OF PROGRAM.—Section 405(a) of title 23, United States Code, is amended—

(A) in paragraph (3), by striking “6” and inserting “8”; and

(B) in paragraph (4)(C), by striking “fifth and sixth” and inserting “fifth through eighth”.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2001(a)(3) of the SAFETEA-LU (119 Stat. 1519) is amended—

(A) by striking “and”; and

(B) by striking “2009.” and inserting “2009, \$25,000,000 for fiscal year 2010, and \$6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of the SAFETEA-LU (119 Stat. 1519) is amended—

(1) by striking “and”; and

(2) by striking “2009.” and inserting “2009, \$124,500,000 for fiscal year 2010, and \$31,125,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of the SAFETEA-LU (119 Stat. 1519) is amended—

(1) by striking “and”; and

(2) by striking “2009.” and inserting “2009, \$34,500,000 for fiscal year 2010, and \$8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—

(1) EXTENSION OF PROGRAM.—Section 410 of title 23, United States Code, is amended—

(A) in subsection (a)(3)(C), by striking “fifth, sixth, seventh, and eighth” and inserting “fifth through tenth”; and

(B) in subsection (b)(2)(C), by striking “2008 and 2009” and inserting “2008, 2009, 2010, and 2011”.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2001(a)(6) of the SAFETEA-LU (119 Stat. 1519) is amended—

(A) by striking “and”; and

(B) by striking “2009.” and inserting “2009, \$139,000,000 for fiscal year 2010, and \$34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of the SAFETEA-LU (119 Stat. 1520) is amended—

(1) by striking “and”; and

(2) by striking “2009.” and inserting “2009, \$4,078,000 for fiscal year 2010, and \$1,029,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

(1) EXTENSION OF PROGRAM.—Section 2009(a) of the SAFETEA-LU (23 U.S.C. 402 note) is amended by striking “2009” and inserting “2011”.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2001(a)(8) of the SAFETEA-LU (119 Stat. 1520) is amended—

(A) by striking “and”; and

(B) by striking “2009.” and inserting “2009, \$29,000,000 for fiscal year 2010, and \$7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(i) MOTORCYCLIST SAFETY.—

(1) EXTENSION OF PROGRAM.—Section 2010(d)(1)(B) of the SAFETEA-LU (23 U.S.C. 402 note) is amended by striking “and

fourth” and inserting “fourth, fifth, and sixth”.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2001(a)(9) of the SAFETEA-LU (119 Stat. 1520) is amended—

(A) by striking “and”; and

(B) by striking “2009.” and inserting “2009, \$7,000,000 for fiscal year 2010, and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—

(1) EXTENSION OF PROGRAM.—Section 2011(c)(2) of the SAFETEA-LU (23 U.S.C. 405 note) is amended by striking “fourth fiscal year” and inserting “fourth, fifth, and sixth fiscal years”.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2001(a)(10) of the SAFETEA-LU (119 Stat. 1520) is amended—

(A) by striking “and”; and

(B) by striking “2009.” and inserting “2009, \$7,000,000 for fiscal year 2010, and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of the SAFETEA-LU (119 Stat. 1520) is amended—

(1) by striking “and” the last place it appears; and

(2) by striking “2009.” and inserting “2009, \$25,047,000 for fiscal year 2010, and \$6,332,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(l) APPLICABILITY OF TITLE 23.—Section 2001(c) of the SAFETEA-LU (119 Stat. 1520) is amended by striking “2009” and inserting “2011”.

(m) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Section 2013(f) of the SAFETEA-LU (23 U.S.C. 403 note) is amended by striking “2009” and inserting “2011”.

(n) OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.—Section 2017 of the SAFETEA-LU is amended—

(1) in subsection (a)(1) (119 Stat. 1541), by striking “2009” and inserting “2011”; and

(2) in subsection (b)(2) (23 U.S.C. 402 note), by striking “2009” and inserting “2011”.

**SEC. 422. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(6) \$209,000,000 for fiscal year 2010; and

“(7) \$52,679,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1) of title 49, United States Code, is amended—

(1) in subparagraph (D), by striking “and”; and

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) “(F) \$239,828,000 for fiscal year 2010; and

“(G) “(G) \$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(c) GRANT PROGRAMS.—Section 4101(c) of the SAFETEA-LU (119 Stat. 1715) is amended—

(1) in paragraph (1), by striking “2009.” and inserting “2009, and \$25,000,000 for fiscal year 2010, and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”;

(2) in paragraph (2), by striking “2009.” and inserting “2009, \$32,000,000 for fiscal year 2010, and \$8,066,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”;

(3) in paragraph (3), by striking “2009.” and inserting “2009, \$5,000,000 for fiscal year 2010, and \$1,260,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”;

(4) in paragraph (4), by striking “2009.” and inserting “2009, \$25,000,000 for fiscal year 2010, and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”; and

(5) in paragraph (5), by striking “2009.” and inserting “2009, \$3,000,000 for fiscal year 2010, and \$756,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(d) **HIGH-PRIORITY ACTIVITIES.**—Section 31104(k) of title 49, United States Code, is amended by striking “2009” in paragraph (2) and inserting “2009, \$15,000,000 for fiscal year 2010, and \$3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010”.

(e) **NEW ENTRANT AUDITS.**—Section 31144(g)(5)(B) of title 49, United States Code, is amended by inserting “(and up to \$7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)” after “fiscal year”.

(f) **COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM MODERNIZATION.**—Section 4123(d) of the SAFETEA-LU (119 Stat.1736) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:  
 “(5) \$8,000,000 for fiscal year 2010; and  
 “(6) \$2,016,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(g) **OUTREACH AND EDUCATION.**—Section 4127(e) of the SAFETEA-LU (119 Stat.1741) is amended by striking “and 2009” and inserting “2009, and 2010, and \$252,000 to the Federal Motor Carrier Safety Administration, and \$756,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(h) **GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.**—Section 4134(c) of the SAFETEA-LU (119 Stat.1744) is amended by striking “2009” and inserting “2009, 2010, and \$252,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(i) **MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**—Section 4144(d) of the SAFETEA-LU (119 Stat.1748) is amended by striking “September 30, 2010” and inserting “December 31, 2010”.

(j) **WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.**—Section 4213(d) of the SAFETEA-LU (49 U.S.C. 14710 note) is amended by striking “September 30, 2009” and inserting “December 31, 2010”.

#### SEC. 423. ADDITIONAL PROGRAMS.

(a) **HAZARDOUS MATERIALS RESEARCH PROJECTS.**—Section 7131(c) of the SAFETEA-LU (119 Stat. 1910) is amended by striking “through 2009” and inserting “through 2010, and \$315,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.”.

(b) **DINGELL-JOHNSON SPORT FISH RESTORATION ACT.**—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “2009,” and inserting “2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010.”; and

(2) in subsection (b)(1)(A), by striking “2010,” and inserting “and for the period be-

ginning on October 1, 2010, and ending on December 31, 2010.”.

#### Subtitle C—Public Transportation Programs SEC. 431. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking “2009” and inserting “2010, and for the period beginning October 1, 2010, and ending December 31, 2010.”.

#### SEC. 432. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by striking “2009” and inserting “2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010”;

(2) in subparagraph (A), by striking “2009,” and inserting “2010, and the period beginning October 1, 2010, and ending December 31, 2010.”; and

(3) in subparagraph (E)—

(A) in the subparagraph heading, by striking “AND 2009” and inserting “THROUGH 2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010”; and

(B) in the matter preceding clause (i), by striking “and 2009” and inserting “through 2010, and during the period beginning October 1, 2010, and ending December 31, 2010.”.

#### SEC. 433. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) in the heading, by striking “2009” and inserting “2010 AND OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010”;

(B) in the matter preceding subparagraph (A), by striking “2009” and inserting “2010, and during the period beginning October 1, 2010, and ending December 31, 2010.”; and

(C) in subparagraph (A)(i), by striking “2009” and inserting “2010, and \$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010.”;

(2) in paragraph (6)—

(A) in subparagraph (B), by striking “2009” and inserting “2010, and \$3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010.”; and

(B) in subparagraph (C), by striking “2009” and inserting “2010, and \$1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010.”; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(ii) in the matter preceding subclause (I), as so redesignated, by striking “\$10,000,000” and all that follows through “2009” and inserting the following:

“(i) FISCAL YEARS 2006 THROUGH 2010.—\$10,000,000 shall be available in each of fiscal years 2006 through 2010”; and

(iii) by inserting after subclause (VIII), as so redesignated, the following:

“(ii) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010.—\$2,500,000 shall be available in the period beginning October 1, 2010, and ending December 31, 2010, for ferry boats or ferry terminal facilities. The Secretary shall set aside a portion of such amount in accordance with clause (i), except that the Secretary shall set aside 25 percent of each dollar amount specified in subclauses (I) through (VIII).”.

(B) in subparagraph (B), by inserting after “2009,” the following:

“(v) \$13,500,000 for fiscal year 2010.

“(vi) \$3,375,000 for the period beginning October 1, 2010, and ending December 31, 2010.”;

(C) in subparagraph (C), by inserting “, and during the period beginning October 1, 2010,

and ending December 31, 2010,” after “fiscal year”;

(D) in subparagraph (D), by inserting “, and not less than \$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,” after “year”; and

(E) in subparagraph (E), by inserting “, and \$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,” after “year”.

#### SEC. 434. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311(c)(1) of title 49, United States Code, is amended by adding at the end the following:

“(E) \$15,000,000 for fiscal year 2010.

“(F) \$3,750,000 for the period beginning October 1, 2010, and ending December 31, 2010.”.

#### SEC. 435. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

Section 5337 of title 49, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “2009” and inserting “2010”; and

(2) by adding at the end the following:

“(g) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending December 31, 2010, in accordance with subsection (a), except that the Secretary shall apportion 25 percent of each dollar amount specified in subsection (a).”.

#### SEC. 436. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking “and” at the end;

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(E) \$8,360,565,000 for fiscal year 2010; and

“(F) \$2,090,141,250 for the period beginning October 1, 2010, and ending December 31, 2010.”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “and \$113,500,000 for fiscal year 2009” and inserting “\$113,500,000 for each of fiscal years 2009 and 2010, and \$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010.”;

(B) in subparagraph (B), by striking “and \$4,160,365,000 for fiscal year 2009” and inserting “\$4,160,365,000 for each of fiscal years 2009 and 2010, and \$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010.”;

(C) in subparagraph (C), by striking “and \$51,500,000 for fiscal year 2009” and inserting “\$51,500,000 for each of fiscal years 2009 and 2010, and \$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010.”;

(D) in subparagraph (D), by striking “and \$1,666,500,000 for fiscal year 2009” and inserting “\$1,666,500,000 for each of fiscal years 2009 and 2010, and \$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(E) in subparagraph (E), by striking “and \$984,000,000 for fiscal year 2009” and inserting “\$984,000,000 for each of fiscal years 2009 and 2010, and \$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(F) in subparagraph (F), by striking “and \$133,500,000 for fiscal year 2009” and inserting “\$133,500,000 for each of fiscal years 2009 and

2010, and \$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(G) in subparagraph (G), by striking “and \$465,000,000 for fiscal year 2009” and inserting “\$465,000,000 for each of fiscal years 2009 and 2010, and \$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(H) in subparagraph (H), by striking “and \$164,500,000 for fiscal year 2009” and inserting “\$164,500,000 for each of fiscal years 2009 and 2010, and \$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(I) in subparagraph (I), by striking “and \$92,500,000 for fiscal year 2009” and inserting “\$92,500,000 for each of fiscal years 2009 and 2010, and \$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(J) in subparagraph (J), by striking “and \$26,900,000 for fiscal year 2009” and inserting “\$26,900,000 for each of fiscal years 2009 and 2010, and \$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(K) in subparagraph (K), by striking “and \$3,500,000 for fiscal year 2009” and inserting “\$3,500,000 for each of fiscal years 2009 and 2010, and \$875,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(L) in subparagraph (L), by striking “and \$25,000,000 for fiscal year 2009” and inserting “\$25,000,000 for each of fiscal years 2009 and 2010, and \$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(M) in subparagraph (M), by striking “and \$465,000,000 for fiscal year 2009” and inserting “\$465,000,000 for each of fiscal years 2009 and 2010, and \$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010.”; and

(N) in subparagraph (N), by striking “and \$8,800,000 for fiscal year 2009” and inserting “\$8,800,000 for each of fiscal years 2009 and 2010, and \$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010.”;

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) \$2,000,000,000 for fiscal year 2010; and

“(6) \$500,000,000 for the period of October 1, 2010 through December 31, 2010.”.

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “and \$69,750,000 for fiscal year 2009” and inserting “\$69,750,000 for each of fiscal years 2009 and 2010, and \$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010”; and

(2) by adding at the end the following:

“(3) ADDITIONAL AUTHORIZATIONS.—

“(A) IN GENERAL.—

“(i) FISCAL YEAR 2010.—Of amounts authorized to be appropriated for fiscal year 2010 under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to the amount allocated for fiscal year 2009 under each such subparagraph.

“(ii) OCTOBER 1, 2010 THROUGH DECEMBER 31, 2010.—Of amounts authorized to be appropriated for the period beginning October 1, 2010, through December 31, 2010, under paragraph (1), the Secretary shall allocate for each of the activities and projects described

in subparagraphs (A) through (F) of paragraph (1) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

“(B) UNIVERSITY CENTERS PROGRAM.—

“(i) FISCAL YEAR 2010.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2010, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to the amount allocated for fiscal year 2009 under each such clause.

“(ii) OCTOBER 1, 2010 THROUGH DECEMBER 31, 2010.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending December 31, 2010, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such clause.

“(iii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2009, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) or (ii) for the project or activity for fiscal year 2010, or any subsequent fiscal year.”.

(d) ADMINISTRATION.—Section 5338(e) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) \$98,911,000 for fiscal year 2010; and

“(6) \$24,727,750 for the period beginning October 1, 2010, and ending December 31, 2010.”.

**SEC. 437. AMENDMENTS TO SAFETEA-LU.**

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1572) is amended by striking “2009” and inserting “2010, and for the period beginning October 1, 2010, and ending December 31, 2010”.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of the SAFETEA-LU (49 U.S.C. 5309 note) is amended—

(1) in subsection (c)(5), by striking “2009” and inserting “2010 and the period beginning October 1, 2010, and ending December 31, 2010”; and

(2) in subsection (d), by striking “2009” and inserting “2010, and for the period beginning October 1, 2010, and ending December 31, 2010”.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of the SAFETEA-LU (49 U.S.C. 5310 note) is amended by striking “September 30, 2009” and inserting “December 31, 2010”.

(d) OBLIGATION CEILING.—Section 3040 of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1639) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(6) \$10,507,752,000 for fiscal year 2010, of which not more than \$8,360,565,000 shall be from the Mass Transit Account; and

“(7) \$2,626,938,000 for the period beginning October 1, 2010, and ending December 31, 2010, of which not more than \$2,090,141,250 shall be from the Mass Transit Account.”.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “2009” and

inserting “2010, and for the period beginning October 1, 2010, and ending December 31, 2010.”; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking “2009” and inserting “2010, and for the period beginning October 1, 2010, and ending December 31, 2010.”.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of the SAFETEA-LU (49 U.S.C. 5338 note) is amended—

(1) in subsection (b), by inserting “or period” after “fiscal year”; and

(2) by adding at the end the following:

“(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title—

“(1) for fiscal year 2010, in amounts equal to the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a); and

“(2) for the period beginning October 1, 2010, and ending December 31, 2010, in amounts equal to 25 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a).

“(d) FUNDING.—If the Secretary determines that a project or activity described in subsection (a) received sufficient funds in fiscal year 2009, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under subsection (c) for the project or activity for fiscal year 2010, or any subsequent fiscal year.”.

#### Subtitle D—Revenue Provisions

#### SEC. 441. REPEAL OF PROVISION PROHIBITING THE CREDITING OF INTEREST TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (1) of section 9503(f) is amended by striking subparagraph (B).

(b) CONFORMING AMENDMENTS.—Such paragraph, as amended by paragraph (1), is further amended—

(1) by striking “, and” at the end of subparagraph (A) and inserting a period; and

(2) by striking “1998” in the matter preceding subparagraph (A) and all that follows through “the opening balance” and inserting “1998, the opening balance”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this title.

#### SEC. 442. RESTORATION OF CERTAIN FOREGONE INTEREST TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (2) of section 9503(f) is amended to read as follows:

“(2) RESTORATION OF FOREGONE INTEREST.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

“(A) \$14,700,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

“(B) \$4,800,000,000 to the Mass Transit Account in the Highway Trust Fund.”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 9503(e) is amended by striking “this subsection” and inserting “this section”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 443. TREATMENT OF CERTAIN AMOUNTS APPROPRIATED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(f), as amended by this Act, is amended by adding at the end the following new paragraph:

“(4) TREATMENT OF APPROPRIATED AMOUNTS.—Any amount appropriated under

this subsection to the Highway Trust Fund shall remain available without fiscal year limitation.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 444. TERMINATION OF TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.**

(a) **IN GENERAL.**—Section 9503(c) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 9502(a) is amended by striking “section 9503(c)(7)” and inserting “section 9503(c)(5)”.

(2) Section 9503(b)(4)(D) is amended by striking “paragraph (4)(D) or (5)(B)” and inserting “paragraph (3)(D) or (4)(B)”.

(3) Paragraph (2) of section 9503(c), as redesignated by subsection (a), is amended by adding at the end the following new sentence: “The amounts payable from the Highway Trust Fund under the preceding sentence shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.”.

(4) Section 9503(e)(5)(A) is amended by striking “(2), (3), and (4)” and inserting “(2) and (3)”.

(5) Section 9504(a) is amended by striking “section 9503(c)(4), section 9503(c)(5)” and inserting “section 9503(c)(3), section 9503(c)(4)”.

(6) Section 9504(b)(2) is amended by striking “section 9503(c)(5)” and inserting “section 9503(c)(4)”.

(7) Section 9504(e) is amended by striking “section 9503(c)(4)” and inserting section “9503(c)(3)”.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to transfers relating to amounts paid and credits allowed after the date of the enactment of this Act.

**SEC. 445. EXTENSION OF AUTHORITY FOR EXPENDITURES.**

(a) **HIGHWAYS TRUST FUND.**—

(1) **HIGHWAY ACCOUNT.**—Paragraph (1) of section 9503(c) is amended—

(A) by striking “September 30, 2009 (October 1, 2009)” and inserting “December 31, 2010 (January 1, 2011)”;

(B) by striking “under” and all that follows and inserting “under the Surface Transportation Extension Act of 2010 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act)”.

(2) **MASS TRANSIT ACCOUNT.**—Paragraph (3) of section 9503(e) is amended—

(A) by striking “October 1, 2009” and inserting “January 1, 2011”;

(B) by striking “in accordance with” and all that follows and inserting “in accordance with the Surface Transportation Extension Act of 2010 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act)”.

(3) **EXCEPTION TO LIMITATION ON TRANSFERS.**—Subparagraph (B) of section 9503(b)(6) is amended by striking “September 30, 2009 (October 1, 2009)” and inserting “December 31, 2010 (January 1, 2011)”.

(b) **SPORT FISH RESTORATION AND BOATING TRUST FUND.**—

(1) **IN GENERAL.**—Paragraph (2) of section 9504(b) is amended—

(A) by striking “(as in effect” in subparagraph (A) and all that follows in such subparagraph and inserting “(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2010),”.

(B) by striking “(as in effect” in subparagraph (B) and all that follows in such sub-

paragraph and inserting “(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2010), and”, and

(C) by striking “(as in effect” in subparagraph (C) and all that follows in such subparagraph and inserting “(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2010),”.

(2) **EXCEPTION TO LIMITATION ON TRANSFERS.**—Paragraph (2) of section 9504(d) is amended by striking “October 1, 2009” and inserting “January 1, 2011”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on September 30, 2009.

**SEC. 446. LEVEL OF OBLIGATION LIMITATIONS.**

(a) **HIGHWAY CATEGORY.**—Section 8003(a) of the SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(6) for the period beginning on October 1, 2009, and ending on September 30, 2010, \$42,469,970,178.

“(7) for the period beginning on October 1, 2010, and ending on December 31, 2010, \$10,617,492,545.”.

(b) **MASS TRANSIT CATEGORY.**—Section 8003(b) of the SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(6) for the period beginning on October 1, 2009, and ending on December 31, 2010, \$10,338,065,000.

“(7) for the period beginning on October 1, 2010, and ending on December 31, 2010, \$2,584,516,250.”.

(c) **TREATMENT OF FUNDS.**—No adjustment pursuant to section 110 of title 23, United States Code, shall be made for fiscal year 2010 or fiscal year 2011.

**TITLE V—OFFSET PROVISIONS**

**Subtitle A—Foreign Account Tax Compliance**

**PART I—INCREASED DISCLOSURE OF BENEFICIAL OWNERS**

**SEC. 501. REPORTING ON CERTAIN FOREIGN ACCOUNTS.**

(a) **IN GENERAL.**—The Internal Revenue Code of 1986 is amended by inserting after chapter 3 the following new chapter:

**“CHAPTER 4—TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN ACCOUNTS**

“Sec. 1471. Withholdable payments to foreign financial institutions.

“Sec. 1472. Withholdable payments to other foreign entities.

“Sec. 1473. Definitions.

“Sec. 1474. Special rules.

**“SEC. 1471. WITHHOLDABLE PAYMENTS TO FOREIGN FINANCIAL INSTITUTIONS.**

“(a) **IN GENERAL.**—In the case of any withholdable payment to a foreign financial institution which does not meet the requirements of subsection (b), the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

“(b) **REPORTING REQUIREMENTS, ETC.**—

“(1) **IN GENERAL.**—The requirements of this subsection are met with respect to any foreign financial institution if an agreement is in effect between such institution and the Secretary under which such institution agrees—

“(A) to obtain such information regarding each holder of each account maintained by such institution as is necessary to determine

which (if any) of such accounts are United States accounts,

“(B) to comply with such verification and due diligence procedures as the Secretary may require with respect to the identification of United States accounts,

“(C) in the case of any United States account maintained by such institution, to report on an annual basis the information described in subsection (c) with respect to such account,

“(D) to deduct and withhold a tax equal to 30 percent of—

“(i) any passthru payment which is made by such institution to a recalcitrant account holder or another foreign financial institution which does not meet the requirements of this subsection, and

“(ii) in the case of any passthru payment which is made by such institution to a foreign financial institution which has in effect an election under paragraph (3) with respect to such payment, so much of such payment as is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection,

“(E) to comply with requests by the Secretary for additional information with respect to any United States account maintained by such institution, and

“(F) in any case in which any foreign law would (but for a waiver described in clause (i)) prevent the reporting of any information referred to in this subsection or subsection (c) with respect to any United States account maintained by such institution—

“(i) to attempt to obtain a valid and effective waiver of such law from each holder of such account, and

“(ii) if a waiver described in clause (i) is not obtained from each such holder within a reasonable period of time, to close such account.

Any agreement entered into under this subsection may be terminated by the Secretary upon a determination by the Secretary that the foreign financial institution is out of compliance with such agreement.

“(2) **FINANCIAL INSTITUTIONS DEEMED TO MEET REQUIREMENTS IN CERTAIN CASES.**—A foreign financial institution may be treated by the Secretary as meeting the requirements of this subsection if—

“(A) such institution—

“(i) complies with such procedures as the Secretary may prescribe to ensure that such institution does not maintain United States accounts, and

“(ii) meets such other requirements as the Secretary may prescribe with respect to accounts of other foreign financial institutions maintained by such institution, or

“(B) such institution is a member of a class of institutions with respect to which the Secretary has determined that the application of this section is not necessary to carry out the purposes of this section.

“(3) **ELECTION TO BE WITHHELD UPON RATHER THAN WITHHOLD ON PAYMENTS TO RECALCITRANT ACCOUNT HOLDERS AND NONPARTICIPATING FOREIGN FINANCIAL INSTITUTIONS.**—In the case of a foreign financial institution which meets the requirements of this subsection and such other requirements as the Secretary may provide and which elects the application of this paragraph—

“(A) the requirements of paragraph (1)(D) shall not apply,

“(B) the withholding tax imposed under subsection (a) shall apply with respect to any withholdable payment to such institution to the extent such payment is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection, and

“(C) the agreement described in paragraph (1) shall—

“(i) require such institution to notify the withholding agent with respect to each such payment of the institution's election under this paragraph and such other information as may be necessary for the withholding agent to determine the appropriate amount to deduct and withhold from such payment, and

“(ii) include a waiver of any right under any treaty of the United States with respect to any amount deducted and withheld pursuant to an election under this paragraph. To the extent provided by the Secretary, the election under this paragraph may be made with respect to certain classes or types of accounts of the foreign financial institution.

“(C) INFORMATION REQUIRED TO BE REPORTED ON UNITED STATES ACCOUNTS.—

“(1) IN GENERAL.—The agreement described in subsection (b) shall require the foreign financial institution to report the following with respect to each United States account maintained by such institution:

“(A) The name, address, and TIN of each account holder which is a specified United States person and, in the case of any account holder which is a United States owned foreign entity, the name, address, and TIN of each substantial United States owner of such entity.

“(B) The account number.

“(C) The account balance or value (determined at such time and in such manner as the Secretary may provide).

“(D) Except to the extent provided by the Secretary, the gross receipts and gross withdrawals or payments from the account (determined for such period and in such manner as the Secretary may provide).

“(2) ELECTION TO BE SUBJECT TO SAME REPORTING AS UNITED STATES FINANCIAL INSTITUTIONS.—In the case of a foreign financial institution which elects the application of this paragraph—

“(A) subparagraphs (C) and (D) of paragraph (1) shall not apply, and

“(B) the agreement described in subsection (b) shall require such foreign financial institution to report such information with respect to each United States account maintained by such institution as such institution would be required to report under sections 6041, 6042, 6045, and 6049 if—

“(i) such institution were a United States person, and

“(ii) each holder of such account which is a specified United States person or United States owned foreign entity were a natural person and citizen of the United States. An election under this paragraph shall be made at such time, in such manner, and subject to such conditions as the Secretary may provide.

“(3) SEPARATE REQUIREMENTS FOR QUALIFIED INTERMEDIARIES.—In the case of a foreign financial institution which is treated as a qualified intermediary by the Secretary for purposes of section 1441 and the regulations issued thereunder, the requirements of this section shall be in addition to any reporting or other requirements imposed by the Secretary for purposes of such treatment.

“(d) DEFINITIONS.—For purposes of this section—

“(1) UNITED STATES ACCOUNT.—

“(A) IN GENERAL.—The term ‘United States account’ means any financial account which is held by one or more specified United States persons or United States owned foreign entities.

“(B) EXCEPTION FOR CERTAIN ACCOUNTS HELD BY INDIVIDUALS.—Unless the foreign financial institution elects to not have this subparagraph apply, such term shall not include any depository account maintained by such financial institution if—

“(i) each holder of such account is a natural person, and

“(ii) with respect to each holder of such account, the aggregate value of all depository accounts held (in whole or in part) by such holder and maintained by the same financial institution which maintains such account does not exceed \$50,000.

To the extent provided by the Secretary, financial institutions which are members of the same expanded affiliated group shall be treated for purposes of clause (ii) as a single financial institution.

“(C) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENTS.—Such term shall not include any financial account in a foreign financial institution if—

“(i) such account is held by another financial institution which meets the requirements of subsection (b), or

“(ii) the holder of such account is otherwise subject to information reporting requirements which the Secretary determines would make the reporting required by this section with respect to United States accounts duplicative.

“(2) FINANCIAL ACCOUNT.—Except as otherwise provided by the Secretary, the term ‘financial account’ means, with respect to any financial institution—

“(A) any depository account maintained by such financial institution,

“(B) any custodial account maintained by such financial institution, and

“(C) any equity or debt interest in such financial institution (other than interests which are regularly traded on an established securities market).

Any equity or debt interest which constitutes a financial account under subparagraph (C) with respect to any financial institution shall be treated for purposes of this section as maintained by such financial institution.

“(3) UNITED STATES OWNED FOREIGN ENTITY.—The term ‘United States owned foreign entity’ means any foreign entity which has one or more substantial United States owners.

“(4) FOREIGN FINANCIAL INSTITUTION.—The term ‘foreign financial institution’ means any financial institution which is a foreign entity. Except as otherwise provided by the Secretary, such term shall not include a financial institution which is organized under the laws of any possession of the United States.

“(5) FINANCIAL INSTITUTION.—Except as otherwise provided by the Secretary, the term ‘financial institution’ means any entity that—

“(A) accepts deposits in the ordinary course of a banking or similar business,

“(B) as a substantial portion of its business, holds financial assets for the account of others, or

“(C) is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities (as defined in section 475(c)(2) without regard to the last sentence thereof), partnership interests, commodities (as defined in section 475(e)(2)), or any interest (including a futures or forward contract or option) in such securities, partnership interests, or commodities.

“(6) RECALCITRANT ACCOUNT HOLDER.—The term ‘recalcitrant account holder’ means any account holder which—

“(A) fails to comply with reasonable requests for the information referred to in subsection (b)(1)(A) or (c)(1)(A), or

“(B) fails to provide a waiver described in subsection (b)(1)(F) upon request.

“(7) PASSTHRU PAYMENT.—The term ‘passthru payment’ means any withholdable

payment or other payment to the extent attributable to a withholdable payment.

“(e) AFFILIATED GROUPS.—

“(1) IN GENERAL.—The requirements of subsections (b) and (c)(1) shall apply—

“(A) with respect to United States accounts maintained by the foreign financial institution, and

“(B) except as otherwise provided by the Secretary, with respect to United States accounts maintained by each other foreign financial institution (other than any foreign financial institution which meets the requirements of subsection (b)) which is a member of the same expanded affiliated group as such foreign financial institution.

“(2) EXPANDED AFFILIATED GROUP.—For purposes of this section, the term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined—

“(A) by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears, and

“(B) without regard to paragraphs (2) and (3) of section 1504(b).

A partnership or any other entity (other than a corporation) shall be treated as a member of an expanded affiliated group if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(f) EXCEPTION FOR CERTAIN PAYMENTS.—Subsection (a) shall not apply to any payment to the extent that the beneficial owner of such payment is—

“(1) any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

“(2) any international organization or any wholly owned agency or instrumentality thereof,

“(3) any foreign central bank of issue, or

“(4) any other class of persons identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion.

**“SEC. 1472. WITHHOLDABLE PAYMENTS TO OTHER FOREIGN ENTITIES.**

“(a) IN GENERAL.—In the case of any withholdable payment to a non-financial foreign entity, if—

“(1) the beneficial owner of such payment is such entity or any other non-financial foreign entity, and

“(2) the requirements of subsection (b) are not met with respect to such beneficial owner,

then the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

“(b) REQUIREMENTS FOR WAIVER OF WITHHOLDING.—The requirements of this subsection are met with respect to the beneficial owner of a payment if—

“(1) such beneficial owner or the payee provides the withholding agent with either—

“(A) a certification that such beneficial owner does not have any substantial United States owners, or

“(B) the name, address, and TIN of each substantial United States owner of such beneficial owner.

“(2) the withholding agent does not know, or have reason to know, that any information provided under paragraph (1) is incorrect, and

“(3) the withholding agent reports the information provided under paragraph (1)(B) to the Secretary in such manner as the Secretary may provide.

“(c) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) except as otherwise provided by the Secretary, any payment beneficially owned by—

“(A) any corporation the stock of which is regularly traded on an established securities market,

“(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation described in subparagraph (A),

“(C) any entity which is organized under the laws of a possession of the United States and which is wholly owned by one or more bona fide residents (as defined in section 937(a)) of such possession,

“(D) any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

“(E) any international organization or any wholly owned agency or instrumentality thereof,

“(F) any foreign central bank of issue, or

“(G) any other class of persons identified by the Secretary for purposes of this subsection, and

“(2) any class of payments identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion.

“(d) NON-FINANCIAL FOREIGN ENTITY.—For purposes of this section, the term ‘non-financial foreign entity’ means any foreign entity which is not a financial institution (as defined in section 1471(d)(5)).

#### “SEC. 1473. DEFINITIONS.

“For purposes of this chapter—

“(1) WITHHOLDABLE PAYMENT.—Except as otherwise provided by the Secretary—

“(A) IN GENERAL.—The term ‘withholdable payment’ means—

“(i) any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States, and

“(ii) any gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States.

“(B) EXCEPTION FOR INCOME CONNECTED WITH UNITED STATES BUSINESS.—Such term shall not include any item of income which is taken into account under section 871(b)(1) or 882(a)(1) for the taxable year.

“(C) SPECIAL RULE FOR SOURCING INTEREST PAID BY FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS.—Subparagraph (B) of section 861(a)(1) shall not apply.

“(2) SUBSTANTIAL UNITED STATES OWNER.—

“(A) IN GENERAL.—The term ‘substantial United States owner’ means—

“(i) with respect to any corporation, any specified United States person which owns, directly or indirectly, more than 10 percent of the stock of such corporation (by vote or value),

“(ii) with respect to any partnership, any specified United States person which owns, directly or indirectly, more than 10 percent of the profits interests or capital interests in such partnership, and

“(iii) in the case of a trust—

“(I) any specified United States person treated as an owner of any portion of such trust under subpart E of part I of subchapter J of chapter 1, and

“(II) to the extent provided by the Secretary in regulations or other guidance, any specified United States person which holds, directly or indirectly, more than 10 percent of the beneficial interests of such trust.

“(B) SPECIAL RULE FOR INVESTMENT VEHICLES.—In the case of any financial institution described in section 1471(d)(5)(C), clauses (i), (ii), and (iii) of subparagraph (A) shall be applied by substituting ‘0 percent’ for ‘10 percent’.

“(3) SPECIFIED UNITED STATES PERSON.—Except as otherwise provided by the Secretary, the term ‘specified United States person’ means any United States person other than—

“(A) any corporation the stock of which is regularly traded on an established securities market,

“(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation the stock of which is regularly traded on an established securities market,

“(C) any organization exempt from taxation under section 501(a) or an individual retirement plan,

“(D) the United States or any wholly owned agency or instrumentality thereof,

“(E) any State, the District of Columbia, any possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

“(F) any bank (as defined in section 581),

“(G) any real estate investment trust (as defined in section 856),

“(H) any regulated investment company (as defined in section 851),

“(I) any common trust fund (as defined in section 584(a)), and

“(J) any trust which—

“(i) is exempt from tax under section 664(c), or

“(ii) is described in section 4947(a)(1).

“(4) WITHHOLDING AGENT.—The term ‘withholding agent’ means all persons, in whatever capacity acting, having the control, receipt, custody, disposal, or payment of any withholdable payment.

“(5) FOREIGN ENTITY.—The term ‘foreign entity’ means any entity which is not a United States person.

#### “SEC. 1474. SPECIAL RULES.

“(a) LIABILITY FOR WITHHELD TAX.—Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

“(b) CREDITS AND REFUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the determination of whether any tax deducted and withheld under this chapter results in an overpayment by the beneficial owner of the payment to which such tax is attributable shall be made as if such tax had been deducted and withheld under subchapter A of chapter 3.

“(2) SPECIAL RULE WHERE FOREIGN FINANCIAL INSTITUTION IS BENEFICIAL OWNER OF PAYMENT.—

“(A) IN GENERAL.—In the case of any tax properly deducted and withheld under section 1471 from a specified financial institution payment—

“(i) if the foreign financial institution referred to in subparagraph (B) with respect to such payment is entitled to a reduced rate of tax with respect to such payment by reason of any treaty obligation of the United States—

“(I) the amount of any credit or refund with respect to such tax shall not exceed the amount of credit or refund attributable to such reduction in rate, and

“(II) no interest shall be allowed or paid with respect to such credit or refund, and

“(ii) if such foreign financial institution is not so entitled, no credit or refund shall be allowed or paid with respect to such tax.

“(B) SPECIFIED FINANCIAL INSTITUTION PAYMENT.—The term ‘specified financial institution payment’ means any payment if the beneficial owner of such payment is a foreign financial institution.

“(3) REQUIREMENT TO IDENTIFY SUBSTANTIAL UNITED STATES OWNERS.—No credit or refund shall be allowed or paid with respect to any tax properly deducted and withheld under this chapter unless the beneficial owner of the payment provides the Secretary such information as the Secretary may require to determine whether such beneficial owner is a United States owned foreign entity (as defined in section 1471(d)(3)) and the identity of any substantial United States owners of such entity.

“(c) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—For purposes of this chapter, rules similar to the rules of section 3406(f) shall apply.

“(2) DISCLOSURE OF LIST OF PARTICIPATING FOREIGN FINANCIAL INSTITUTIONS PERMITTED.—The identity of a foreign financial institution which meets the requirements of section 1471(b) shall not be treated as return information for purposes of section 6103.

“(d) COORDINATION WITH OTHER WITHHOLDING PROVISIONS.—The Secretary shall provide for the coordination of this chapter with other withholding provisions under this title, including providing for the proper crediting of amounts deducted and withheld under this chapter against amounts required to be deducted and withheld under such other provisions.

“(e) TREATMENT OF WITHHOLDING UNDER AGREEMENTS.—Any tax deducted and withheld pursuant to an agreement described in section 1471(b) shall be treated for purposes of this title as a tax deducted and withheld by a withholding agent under section 1471(a).

“(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of, and prevent the avoidance of, this chapter.”.

(b) SPECIAL RULE FOR INTEREST ON OVERPAYMENTS.—Subsection (e) of section 6611 is amended by adding at the end the following new paragraph:

“(4) CERTAIN WITHHOLDING TAXES.—In the case of any overpayment resulting from tax deducted and withheld under chapter 3 or 4, paragraphs (1), (2), and (3) shall be applied by substituting ‘180 days’ for ‘45 days’ each place it appears.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 6414 is amended by inserting “or 4” after “chapter 3”.

(2) Paragraph (1) of section 6501(b) is amended by inserting “4,” after “chapter 3.”.

(3) Paragraph (2) of section 6501(b) is amended—

(A) by inserting “4,” after “chapter 3,” in the text thereof, and

(B) by striking “TAXES AND TAX IMPOSED BY CHAPTER 3” in the heading thereof and inserting “AND WITHHOLDING TAXES”.

(4) Paragraph (3) of section 6513(b) is amended—

(A) by inserting “or 4” after “chapter 3”, and

(B) by inserting “or 1474(b)” after “section 1462”.

(5) Subsection (c) of section 6513 is amended by inserting “4,” after “chapter 3.”.

(6) Paragraph (1) of section 6724(d) is amended by inserting “under chapter 4 or” after “filed with the Secretary” in the last sentence thereof.

(7) Paragraph (2) of section 6724(d) is amended by inserting “or 4” after “chapter 3”.

(8) The table of chapters of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 4. TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN ACCOUNTS.”.

(d) EFFECTIVE DATE.—

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

made by this section shall apply to payments made after December 31, 2012.

(2) **GRANDFATHERED TREATMENT OF OUTSTANDING OBLIGATIONS.**—The amendments made by this section shall not require any amount to be deducted or withheld from any payment under any obligation outstanding on the date which is 2 years after the date of the enactment of this Act or from the gross proceeds from any disposition of such an obligation.

(3) **INTEREST ON OVERPAYMENTS.**—The amendment made by subsection (b) shall apply—

(A) in the case of such amendment's application to paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986, to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act,

(B) in the case of such amendment's application to paragraph (2) of such section, to claims for credit or refund of any overpayment filed after the date of the enactment of this Act (regardless of the taxable period to which such refund relates), and

(C) in the case of such amendment's application to paragraph (3) of such section, to refunds paid after the date of the enactment of this Act (regardless of the taxable period to which such refund relates).

#### **SEC. 502. REPEAL OF CERTAIN FOREIGN EXCEPTIONS TO REGISTERED BOND REQUIREMENTS.**

(a) **REPEAL OF EXCEPTION TO DENIAL OF DEDUCTION FOR INTEREST ON NON-REGISTERED BONDS.**—

(1) **IN GENERAL.**—Paragraph (2) of section 163(f) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (2) of section 149(a) is amended by inserting “or” at the end of subparagraph (A), by striking “, or” at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(B) Subparagraph (A) of section 163(f)(2) is amended by inserting “or” at the end of clause (ii), by striking “, or” at the end of clause (iii) and inserting a period, and by striking clause (iv).

(C) Subparagraph (B) of section 163(f)(2), as redesignated by paragraph (1), is amended—

(i) by striking “, and subparagraph (B),” in the matter preceding clause (i), and

(ii) by amending clause (i) to read as follows:

“(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and”.

(D) Sections 165(j)(2)(A) and 1287(b)(1) are each amended by striking “except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply”.

(b) **REPEAL OF TREATMENT AS PORTFOLIO DEBT.**—

(1) **IN GENERAL.**—Paragraph (2) of section 871(h) is amended to read as follows:

“(2) **PORTFOLIO INTEREST.**—For purposes of this subsection, the term ‘portfolio interest’ means any interest (including original issue discount) which—

“(A) would be subject to tax under subsection (a) but for this subsection, and

“(B) is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which—

“(I) the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) receives a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person, or

“(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 871(h)(3)(A) is amended by striking “subparagraph (A) or (B) of”.

(B) Paragraph (2) of section 881(c) is amended to read as follows:

“(2) **PORTFOLIO INTEREST.**—For purposes of this subsection, the term ‘portfolio interest’ means any interest (including original issue discount) which—

“(A) would be subject to tax under subsection (a) but for this subsection, and

“(B) is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which—

“(I) the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) receives a statement which meets the requirements of section 871(h)(5) that the beneficial owner of the obligation is not a United States person, or

“(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.”.

(c) **DEMATERIALIZED BOOK ENTRY SYSTEMS TREATED AS REGISTERED FORM.**—Paragraph (3) of section 163(f) is amended by inserting “, except that a dematerialized book entry system or other book entry system specified by the Secretary shall be treated as a book entry system described in such section” before the period at the end.

(d) **REPEAL OF EXCEPTION TO REQUIREMENT THAT TREASURY OBLIGATIONS BE IN REGISTERED FORM.**—

(1) **IN GENERAL.**—Subsection (g) of section 3121 of title 31, United States Code, is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) **CONFORMING AMENDMENTS.**—Paragraph (1) of section 3121(g) of such title is amended—

(A) by adding “or” at the end of subparagraph (A),

(B) by striking “; or” at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(e) **PRESERVATION OF EXCEPTION FOR EXCISE TAX PURPOSES.**—Paragraph (1) of section 4701(b) is amended to read as follows:

“(1) **REGISTRATION-REQUIRED OBLIGATION.**—

“(A) **IN GENERAL.**—The term ‘registration-required obligation’ has the same meaning as when used in section 163(f), except that such term shall not include any obligation which—

“(i) is required to be registered under section 149(a), or

“(ii) is described in subparagraph (B).

“(B) **CERTAIN OBLIGATIONS NOT INCLUDED.**—An obligation is described in this subparagraph if—

“(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person,

“(ii) interest on such obligation is payable only outside the United States and its possessions, and

“(iii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date which is 2 years after the date of the enactment of this Act.

#### **PART II—UNDER REPORTING WITH RESPECT TO FOREIGN ASSETS**

##### **SEC. 511. DISCLOSURE OF INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.**

(a) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

##### **“SEC. 6038D. INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.**

“(a) **IN GENERAL.**—Any individual who, during any taxable year, holds any interest in a specified foreign financial asset shall attach to such person's return of tax imposed by subtitle A for such taxable year the information described in subsection (c) with respect to each such asset if the aggregate value of all such assets exceeds \$50,000 (or such higher dollar amount as the Secretary may prescribe).

“(b) **SPECIFIED FOREIGN FINANCIAL ASSETS.**—For purposes of this section, the term ‘specified foreign financial asset’ means—

“(1) any financial account (as defined in section 1471(d)(2)) maintained by a foreign financial institution (as defined in section 1471(d)(4)), and

“(2) any of the following assets which are not held in an account maintained by a financial institution (as defined in section 1471(d)(5))—

“(A) any stock or security issued by a person other than a United States person,

“(B) any financial instrument or contract held for investment that has an issuer or counterparty which is other than a United States person, and

“(C) any interest in a foreign entity (as defined in section 1473).

“(c) **REQUIRED INFORMATION.**—The information described in this subsection with respect to any asset is:

“(1) In the case of any account, the name and address of the financial institution in which such account is maintained and the number of such account.

“(2) In the case of any stock or security, the name and address of the issuer and such information as is necessary to identify the class or issue of which such stock or security is a part.

“(3) In the case of any other instrument, contract, or interest—

“(A) such information as is necessary to identify such instrument, contract, or interest, and

“(B) the names and addresses of all issuers and counterparties with respect to such instrument, contract, or interest.

“(4) The maximum value of the asset during the taxable year.

“(d) **PENALTY FOR FAILURE TO DISCLOSE.**—

“(1) **IN GENERAL.**—If any individual fails to furnish the information described in subsection (c) with respect to any taxable year at the time and in the manner described in subsection (a), such person shall pay a penalty of \$10,000.

“(2) **INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.**—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the individual, such individual shall pay a penalty (in addition to the penalties under paragraph (1)) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The penalty imposed under this paragraph with respect to any failure shall not exceed \$50,000.

“(e) **PRESUMPTION THAT VALUE OF SPECIFIED FOREIGN FINANCIAL ASSETS EXCEEDS DOLLAR THRESHOLD.**—If—

“(1) the Secretary determines that an individual has an interest in one or more specified foreign financial assets, and

“(2) such individual does not provide sufficient information to demonstrate the aggregate value of such assets, then the aggregate value of such assets shall be treated as being in excess of \$50,000 (or such higher dollar amount as the Secretary prescribes for purposes of subsection (a)) for purposes of assessing the penalties imposed under this section.

“(f) APPLICATION TO CERTAIN ENTITIES.—To the extent provided by the Secretary in regulations or other guidance, the provisions of this section shall apply to any domestic entity which is formed or availed of for purposes of holding, directly or indirectly, specified foreign financial assets, in the same manner as if such entity were an individual.

“(g) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide appropriate exceptions from the application of this section in the case of—

“(1) classes of assets identified by the Secretary, including any assets with respect to which the Secretary determines that disclosure under this section would be duplicative of other disclosures,

“(2) nonresident aliens, and

“(3) bona fide residents of any possession of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038C the following new item:

“Sec. 6038D. Information with respect to foreign financial assets.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

#### SEC. 512. PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO UNDISCLOSED FOREIGN FINANCIAL ASSETS.

(a) IN GENERAL.—Section 6662, as amended by this Act, is amended—

(1) in subsection (b), by inserting after paragraph (6) the following new paragraph:

“(7) Any undisclosed foreign financial asset understatement.”, and

(2) by adding at the end the following new subsection:

“(j) UNDISCLOSED FOREIGN FINANCIAL ASSET UNDERSTATEMENT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘undisclosed foreign financial asset understatement’ means, for any taxable year, the portion of the understatement for such taxable year which is attributable to any transaction involving an undisclosed foreign financial asset.

“(2) UNDISCLOSED FOREIGN FINANCIAL ASSET.—For purposes of this subsection, the term ‘undisclosed foreign financial asset’ means, with respect to any taxable year, any asset with respect to which information was required to be provided under section 6038, 6038B, 6038D, 6046A, or 6048 for such taxable year but was not provided by the taxpayer as required under the provisions of those sections.

“(3) INCREASE IN PENALTY FOR UNDISCLOSED FOREIGN FINANCIAL ASSET UNDERSTATEMENTS.—In the case of any portion of an underpayment which is attributable to any undisclosed foreign financial asset understate-

ment, subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent’.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

#### SEC. 513. MODIFICATION OF STATUTE OF LIMITATIONS FOR SIGNIFICANT OMISSION OF INCOME IN CONNECTION WITH FOREIGN ASSETS.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 6501(e) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

“(A) GENERAL RULE.—If the taxpayer omits from gross income an amount properly includible therein and—

“(i) such amount is in excess of 25 percent of the amount of gross income stated in the return, or

“(ii) such amount—

“(I) is attributable to one or more assets with respect to which information is required to be reported under section 6038D (or would be so required if such section were applied without regard to the dollar threshold specified in subsection (a) thereof and without regard to any exceptions provided pursuant to subsection (h)(1) thereof), and

“(II) is in excess of \$5,000,

the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 6501(e)(1), as redesignated by paragraph (1), is amended by striking all that precedes clause (i) and inserting the following:

“(B) DETERMINATION OF GROSS INCOME.—For purposes of subparagraph (A)—”.

(B) Paragraph (2) of section 6229(c) is amended by striking “which is in excess of 25 percent of the amount of gross income stated in its return” and inserting “and such amount is described in clause (i) or (ii) of section 6501(e)(1)(A)”.

(b) ADDITIONAL REPORTS SUBJECT TO EXTENDED PERIOD.—Paragraph (8) of section 6501(c) is amended—

(1) by inserting “pursuant to an election under section 1295(b) or” before “under section 6038”,

(2) by inserting “1298(f),” before “6038”, and

(3) by inserting “6038D,” after “6038B.”.

(c) CLARIFICATIONS RELATED TO FAILURE TO DISCLOSE FOREIGN TRANSFERS.—Paragraph (8) of section 6501(c) is amended by striking “event” and inserting “tax return, event.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) returns filed after the date of the enactment of this Act; and

(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of such taxes has not expired as of such date.

#### PART III—OTHER DISCLOSURE PROVISIONS

#### SEC. 521. REPORTING OF ACTIVITIES WITH RESPECT TO PASSIVE FOREIGN INVESTMENT COMPANIES.

(a) IN GENERAL.—Section 1298 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) REPORTING REQUIREMENT.—Except as otherwise provided by the Secretary, each United States person who is a shareholder of

a passive foreign investment company shall file an annual report containing such information as the Secretary may require.”.

(b) CONFORMING AMENDMENT.—Subsection (e) of section 1291 is amended by striking “, (d), and (f)” and inserting “and (d)”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

#### SEC. 522. SECRETARY PERMITTED TO REQUIRE FINANCIAL INSTITUTIONS TO FILE CERTAIN RETURNS RELATED TO WITHHOLDING ON FOREIGN TRANSFERS ELECTRONICALLY.

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

“(4) SPECIAL RULE FOR RETURNS FILED BY FINANCIAL INSTITUTIONS WITH RESPECT TO WITHHOLDING ON FOREIGN TRANSFERS.—The numerical limitation under paragraph (2)(A) shall not apply to any return filed by a financial institution (as defined in section 1471(d)(5)) with respect to tax for which such institution is made liable under section 1461 or 1474(a).”.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 6724 is amended by inserting “or with respect to a return described in section 6011(e)(4)” before the end period.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

#### PART IV—PROVISIONS RELATED TO FOREIGN TRUSTS

#### SEC. 531. CLARIFICATIONS WITH RESPECT TO FOREIGN TRUSTS WHICH ARE TREATED AS HAVING A UNITED STATES BENEFICIARY.

(a) IN GENERAL.—Paragraph (1) of section 679(c) is amended by adding at the end the following:

“For purposes of subparagraph (A), an amount shall be treated as accumulated for the benefit of a United States person even if the United States person’s interest in the trust is contingent on a future event.”.

(b) CLARIFICATION REGARDING DISCRETION TO IDENTIFY BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULE IN CASE OF DISCRETION TO IDENTIFY BENEFICIARIES.—For purposes of paragraph (1)(A), if any person has the discretion (by authority given in the trust agreement, by power of appointment, or otherwise) of making a distribution from the trust to, or for the benefit of, any person, such trust shall be treated as having a beneficiary who is a United States person unless—

“(A) the terms of the trust specifically identify the class of persons to whom such distributions may be made, and

“(B) none of those persons are United States persons during the taxable year.”.

(c) CLARIFICATION THAT CERTAIN AGREEMENTS AND UNDERSTANDINGS ARE TERMS OF THE TRUST.—Subsection (c) of section 679, as amended by subsection (b), is amended by adding at the end the following new paragraph:

“(5) CERTAIN AGREEMENTS AND UNDERSTANDINGS TREATED AS TERMS OF THE TRUST.—For purposes of paragraph (1)(A), if any United States person who directly or indirectly transfers property to the trust is directly or indirectly involved in any agreement or understanding (whether written, oral, or otherwise) that may result in the income or corpus of the trust being paid or accumulated to or for the benefit of a United States person, such agreement or understanding shall be treated as a term of the trust.”.

**SEC. 532. PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.**

(a) IN GENERAL.—Section 679 is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

“(d) PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.—If a United States person directly or indirectly transfers property to a foreign trust (other than a trust described in section 6048(a)(3)(B)(ii)), the Secretary may treat such trust as having a United States beneficiary for purposes of applying this section to such transfer unless such person—

“(1) submits such information to the Secretary as the Secretary may require with respect to such transfer, and

“(2) demonstrates to the satisfaction of the Secretary that such trust satisfies the requirements of subparagraphs (A) and (B) of subsection (c)(1).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after the date of the enactment of this Act.

**SEC. 533. UNCOMPENSATED USE OF TRUST PROPERTY.**

(a) IN GENERAL.—Paragraph (1) of section 643(i) is amended—

(1) by striking “directly or indirectly to” and inserting “(or permits the use of any other trust property) directly or indirectly to or by”, and

(2) by inserting “(or the fair market value of the use of such property)” after “the amount of such loan”.

(b) EXCEPTION FOR COMPENSATED USE.—Paragraph (2) of section 643(i) is amended by adding at the end the following new subparagraph:

“(E) EXCEPTION FOR COMPENSATED USE OF PROPERTY.—In the case of the use of any trust property other than a loan of cash or marketable securities, paragraph (1) shall not apply to the extent that the trust is paid the fair market value of such use within a reasonable period of time of such use.”

(c) APPLICATION TO GRANTOR TRUSTS.—Subsection (c) of section 679, as amended by this Act, is amended by adding at the end the following new paragraph:

“(6) UNCOMPENSATED USE OF TRUST PROPERTY TREATED AS A PAYMENT.—For purposes of this subsection, a loan of cash or marketable securities (or the use of any other trust property) directly or indirectly to or by any United States person (whether or not a beneficiary under the terms of the trust) shall be treated as paid or accumulated for the benefit of a United States person. The preceding sentence shall not apply to the extent that the United States person repays the loan at a market rate of interest (or pays the fair market value of the use of such property) within a reasonable period of time.”

(d) CONFORMING AMENDMENTS.—Paragraph (3) of section 643(i) is amended—

(1) by inserting “(or use of property)” after “If any loan”,

(2) by inserting “or the return of such property” before “shall be disregarded”, and

(3) by striking “REGARDING LOAN PRINCIPAL” in the heading thereof.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made, and uses of property, after the date of the enactment of this Act.

**SEC. 534. REPORTING REQUIREMENT OF UNITED STATES OWNERS OF FOREIGN TRUSTS.**

(a) IN GENERAL.—Paragraph (1) of section 6048(b) is amended by inserting “shall submit such information as the Secretary may prescribe with respect to such trust for such year and” before “shall be responsible to ensure”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable

years beginning after the date of the enactment of this Act.

**SEC. 535. MINIMUM PENALTY WITH RESPECT TO FAILURE TO REPORT ON CERTAIN FOREIGN TRUSTS.**

(a) IN GENERAL.—Subsection (a) of section 6677 is amended—

(1) by inserting “the greater of \$10,000 or” before “35 percent”, and

(2) by striking the last sentence and inserting the following: “At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns required to be filed after December 31, 2009.

**PART V—SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVALENT PAYMENTS RECEIVED BY FOREIGN PERSONS TREATED AS DIVIDENDS****SEC. 541. SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVALENT PAYMENTS RECEIVED BY FOREIGN PERSONS TREATED AS DIVIDENDS.**

(a) IN GENERAL.—Section 871 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

“(1) TREATMENT OF DIVIDEND EQUIVALENT PAYMENTS.—

“(1) IN GENERAL.—For purposes of subsection (a), sections 881 and 4948(a), and chapters 3 and 4, a dividend equivalent shall be treated as a dividend from sources within the United States.

“(2) DIVIDEND EQUIVALENT.—For purposes of this subsection, the term ‘dividend equivalent’ means—

“(A) any substitute dividend made pursuant to a securities lending or a sale-repurchase transaction that (directly or indirectly) is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States,

“(B) any payment made pursuant to a specified notional principal contract that (directly or indirectly) is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States, and

“(C) any other payment determined by the Secretary to be substantially similar to a payment described in subparagraph (A) or (B).

“(3) SPECIFIED NOTIONAL PRINCIPAL CONTRACT.—For purposes of this subsection, the term ‘specified notional principal contract’ means—

“(A) any notional principal contract if—

“(i) in connection with entering into such contract, any long party to the contract transfers the underlying security to any short party to the contract,

“(ii) in connection with the termination of such contract, any short party to the contract transfers the underlying security to any long party to the contract,

“(iii) the underlying security is not readily tradable on an established securities market,

“(iv) in connection with entering into such contract, the underlying security is posted as collateral by any short party to the contract with any long party to the contract, or

“(v) such contract is identified by the Secretary as a specified notional principal contract,

“(B) in the case of payments made after the date which is 2 years after the date of the

enactment of this subsection, any notional principal contract unless the Secretary determines that such contract is of a type which does not have the potential for tax avoidance.

“(4) DEFINITIONS.—For purposes of paragraph (3)(A)—

“(A) LONG PARTY.—The term ‘long party’ means, with respect to any underlying security of any notional principal contract, any party to the contract which is entitled to receive any payment pursuant to such contract which is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States with respect to such underlying security.

“(B) SHORT PARTY.—The term ‘short party’ means, with respect to any underlying security of any notional principal contract, any party to the contract which is not a long party with respect to such underlying security.

“(C) UNDERLYING SECURITY.—The term ‘underlying security’ means, with respect to any notional principal contract, the security with respect to which the dividend referred to in paragraph (2)(B) is paid. For purposes of this paragraph, any index or fixed basket of securities shall be treated as a single security.

“(5) PAYMENTS DETERMINED ON GROSS BASIS.—For purposes of this subsection, the term ‘payment’ includes any gross amount which is used in computing any net amount which is transferred to or from the taxpayer.

“(6) PREVENTION OF OVER-WITHOLDING.—In the case of any chain of dividend equivalents one or more of which is subject to tax under subsection (a) or section 881, the Secretary may reduce such tax, but only to the extent that the taxpayer can establish that such tax has been paid with respect to another dividend equivalent in such chain, or is not otherwise due, or as the Secretary determines is appropriate to address the role of financial intermediaries in such chain. For purposes of this paragraph, a dividend shall be treated as a dividend equivalent.

“(7) COORDINATION WITH CHAPTERS 3 AND 4.—For purposes of chapters 3 and 4, each person that is a party to any contract or other arrangement that provides for the payment of a dividend equivalent shall be treated as having control of such payment.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date that is 180 days after the date of the enactment of this Act.

**Subtitle B—Delay in Application of Worldwide Allocation of Interest****SEC. 551. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.**

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) are each amended by striking “December 31, 2017” and inserting “December 31, 2019”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SA 3311.** Mr. REID proposed an amendment to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 5 days after enactment.

**SA 3312.** Mr. REID proposed an amendment to the bill H.R. 2847, making appropriations for the Departments

of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, insert the following:

The Committee on Appropriations is requested to study the impact of any delay in implementing the provisions of the Act on job creation on a regional and national level.

**SA 3313.** Mr. REID proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, add the following:

“and includes statistics of specific service related positions created.

**SA 3314.** Mr. REID proposed an amendment to amendment SA 3313 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, add the following:

“and the impact on the local economy.”

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON INDIAN AFFAIRS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on February 11, 2010, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

### COMMITTEE ON THE JUDICIARY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 11, 2010, at 2:15 p.m., in S-120 of the Capitol, to conduct an executive business meeting.

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

### SELECT COMMITTEE ON INTELLIGENCE

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 11, 2010 at 2:30 p.m.

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

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. Mr. President, we have a number of nominations that have been cleared. I appreciate the cooperation of the Republicans in this regard. I have said enough on this subject. I am glad we are able to get this many done.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos.

531, 580, 602, 615, 622, 623, 627, 631, 642, 645, 646, 650, 651, 658, 659, 660, 662, 666, 686, 687, 689, 690, 691, 692, 693, 694, and 695; that the nominations be confirmed en bloc and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### UNITED STATES SENTENCING COMMISSION

Ketanji Brown Jackson, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2013.

#### DEPARTMENT OF JUSTICE

Susan B. Carbon, of New Hampshire, to be Director of the Violence Against Women Office, Department of Justice.

#### DEPARTMENT OF STATE

Betty E. King, of New York, to be Representative of the United States of America to the Office of the United Nations and Other International Organizations in Geneva, with the rank of Ambassador.

#### DEPARTMENT OF HOMELAND SECURITY

Caryn A. Wagner, of Virginia, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security.

#### DEPARTMENT OF LABOR

Sara Manzano-Diaz, of Pennsylvania, to be Director of the Women's Bureau, Department of Labor.

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Patrick Alfred Corvington, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

#### DEPARTMENT OF VETERANS AFFAIRS

Robert A. Petzel, of Minnesota, to be Under Secretary for Health of the Department of Veterans Affairs.

#### DEPARTMENT OF COMMERCE

Nicole Yvette Lamb-Hale, of Michigan, to be an Assistant Secretary of Commerce.

#### DEPARTMENT OF THE TREASURY

Marisa Lago, of New York, to be an Assistant Secretary of the Treasury.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ellen Gloninger Murray, of Virginia, to be an Assistant Secretary of Health and Human Services.

Bryan Hayes Samuels, of Illinois, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

#### DEPARTMENT OF THE TREASURY

Charles Collins, of Maryland, to be a Deputy Under Secretary of the Treasury.

Mary John Miller, of Maryland, to be an Assistant Secretary of the Treasury.

#### DEPARTMENT OF JUSTICE

André Birotte, Jr., of California, to be United States Attorney for the Central District of California for the term of four years.

Richard S. Hartunian, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

Ronald C. Machen, Jr., of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years.

#### DEPARTMENT OF DEFENSE

Mary Sally Matiella, of Arizona, to be an Assistant Secretary of the Army.

Douglas B. Wilson, of Arizona, to be an Assistant Secretary of Defense.

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Irvin M. Mayfield, Jr., of Louisiana, to be a Member of the National Council on the Arts for a term expiring September 3, 2014.

#### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Cynthia L. Attwood, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2013.

#### SECURITIES INVESTOR PROTECTION CORPORATION

Sharon Y. Bowen, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2012.

Orlan Johnson, of Maryland, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2011.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Douglas A. Criscitello, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

Theodore W. Tozer, of Ohio, to be President, Government National Mortgage Association.

#### DEPARTMENT OF COMMERCE

David W. Mills, of Virginia, to be an Assistant Secretary of Commerce.

Suresh Kumar, of New Jersey, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Kevin Wolf, of Virginia, to be an Assistant Secretary of Commerce.

#### NOMINATION OF CARYN WAGNER

Mrs. FEINSTEIN. Mr. President, I support the nomination of Ms. Caryn Wagner to be Under Secretary of Intelligence and Analysis at the Department of Homeland Security, DHS, and urge my colleagues to confirm her. The Intelligence Committee unanimously approved the nomination by voice vote on December 10, 2009.

The Under Secretary of Intelligence and Analysis leads the Office of Intelligence and Analysis at the Department of Homeland Security, which is among the youngest elements of the U.S. intelligence community. The main responsibilities of the Office are to ensure that information related to homeland security threats is (1) collected, analyzed, and disseminated to homeland security customers in the Department, at the State, local, and tribal levels; (2) shared as appropriate with private sector entities; and (3) provided to other intelligence community agencies. The Under Secretary of the Office leads these efforts, provides homeland security intelligence and advice to the Secretary and other senior officials in the Department of Homeland Security, and serves as the Department's senior interagency intelligence representative.

The cases of Najibullah Zazi in New York and David Headley in Chicago, both U.S. persons allegedly involved in plotting terrorist acts and having ties to noted terrorist groups overseas, show the threat of violent Islamist radicalization occurring in this country is real. The Department of Homeland Security was created in 2002 to

focus on the threat of terrorist activity in the United States, a mission that is vitally dependent on good, accurate, actionable intelligence.

Nonetheless, the Office of Intelligence and Analysis has experienced numerous problems in its short tenure and members of the Intelligence Committee and the Homeland Security Committee have frequently raised concerns. Of particular note have been the Office's ill-defined planning, programming and budget processes; a gross overreliance on contractors to the point that 63 percent of the workforce was contractor personnel as of this summer; and a lack of a strategic plan. On a number of occasions the Office has produced and disseminated finished intelligence that has been based on noncredible open source materials or focused intelligence resources on the first amendment protected activities of American citizens.

Clearly, the Office is in need of strong leadership from an Under Secretary with an extensive background in management and intelligence.

The Intelligence Committee is confident that Ms. Wagner is such a person and is up to the challenge of setting the DHS Office of Intelligence and Analysis on a proper course. If confirmed, among her first tasks will be to review a draft plan to restructure and refine the Office's mission, which will be a good first indication of how Ms. Wagner will manage the organization.

Ms. Wagner's distinguished career in public and private service prepares her well for this position. Ms. Wagner is currently an instructor in intelligence resource management for the Intelligence and Security Academy, LLC.

She retired from the House Permanent Select Committee on Intelligence on October 1, 2008, where she served as budget director and cybersecurity coordinator. Prior to that, Ms. Wagner served in the Office of the Director of National Intelligence as an Assistant Deputy Director of National Intelligence for Management and the first chief financial officer for the National Intelligence Program. She assumed this position after serving as the executive director for Intelligence Community Affairs.

Ms. Wagner has also previously served as the senior Defense Intelligence Agency Representative to the U.S. European Command and North Atlantic Treaty Organization as well as the Deputy Director for Analysis and Production at DIA. She was also formerly the staff director of the Subcommittee on Technical and Tactical Intelligence at the House Permanent Select Committee on Intelligence and a signals intelligence and electronic warfare officer in the U.S. Army.

President Obama nominated Ms. Wagner on October 23, 2009. After completing the prehearing procedures, the Intelligence Committee held a confirmation hearing on the nomination on December 1, 2009. As part of the confirmation process, Ms. Wagner was

asked to complete a committee questionnaire, prehearing questions, and posthearing questions for the record. The answers she provided have all been posted to the Intelligence Committee's Web site. The Senate Homeland Security and Government Affairs Committee also held a hearing on Ms. Wagner's nomination on December 3, 2009.

In sum, I am confident that Caryn Wagner will be an asset to the Department of Homeland Security and to the intelligence community. I look forward to working with her and I urge the Senate to approve Ms. Wagner's nomination.

NOMINATION OF ANDRÉ BIROTTE, JR.

Mr. President, nominations in this Chamber are moving at a snail's pace.

Last week, it took us three votes—spanning 3 days—to move only two nominations.

Last Thursday, we had a cloture vote on Martha Johnson, the nominee to lead the General Services Administration. The Homeland Security and Governmental Affairs Committee reported her to the floor unanimously last June, but since then her nomination has been blocked on the floor for 7 months. Seven months of a hold. And then once cloture was invoked, 94 Members of this body voted to confirm her.

Unfortunately, the minority's blocking of noncontroversial nominees is becoming the rule rather than the exception.

Last Tuesday, I spoke about two nominees for posts in the intelligence community—Caryn Wagner to be the Under Secretary of Intelligence and Analysis at the Department of Homeland Security, DHS, and of Ambassador Phil Goldberg to be the Assistant Secretary for Intelligence and Research at the Department of State.

Neither nomination is controversial. Both were reported out of the Senate Intelligence Committee by voice vote. And both of these posts are critical to efforts to protect the security of our Nation.

Yet both nominations are still blocked on the floor.

Today, I rise to speak on yet another noncontroversial nomination that members of the minority are blocking.

André Birotte, Jr., is the nominee to be the U.S. attorney for the Central District of Los Angeles. He was reported out of the Judiciary Committee by voice vote.

He is highly qualified, and he is not controversial.

Mr. Birotte is a former Federal prosecutor in the office who currently serves as the inspector general for the Los Angeles Police Commission. In this role, he has the often unenviable job of determining whether disciplinary action is necessary against law enforcement officials who have been accused of official misconduct. His position requires him to review the facts and follow where they lead—even in highly sensitive situations.

In this tough role, Mr. Birotte has stood out for integrity and

evenhandedness. He has earned the overwhelming respect and support of both law enforcement officers and the civil rights community.

Mr. Birotte is tough. He is independent. He has management experience. He has prosecution experience. And I believe he will make an excellent U.S. attorney.

He will also be the first African-American U.S. attorney in the central district. It is my hope that his historic appointment as the lead Federal law enforcement official in Los Angeles will be one more step forward for a city that has known both great progress and, at times, acute disappointment in race relations.

For all of these reasons, I would like to see him confirmed as soon as possible.

This nomination is not just important to me because of the strength of the nominee, however. I also believe it is essential that we get this Office's leader into place.

The U.S. Attorney's Office in the Central District of California is the second largest in the country. Only the Office in the District of Columbia is larger, and that is because it has unusual responsibility for both local and Federal crimes.

The central district office employs more than 250 Federal prosecutors. They bear responsibility for prosecuting violations of Federal law across seven counties—Los Angeles County, Orange County, Riverside County, San Bernardino County, San Luis Obispo County, Santa Barbara County, and Ventura County—that span more than 40,000 square miles. The district includes Los Angeles and 34 other cities, with a combined population of more than 18 million.

It is a huge operation.

As in all of the U.S. attorneys' offices, the prosecutors in the Central District of California are busy.

In the past year alone, the U.S. Attorney's Office has brought in over \$150 million in judgments, won significant convictions against leaders of gangs and fraudulent enterprises, and placed people behind bars for crimes committed around the world.

Let me give you a few examples, all from 2009 and 2010:

Central District prosecutors secured a \$46 million restitution order in a case against a former real estate appraiser who committed massive mortgage fraud.

They put the leader of a \$64 million Ponzi scheme behind bars for 300 months and won a \$44 million restitution order against him.

They indicted 88 members and associates of a street gang called the Avenues on various charges, including the 2008 murder of a Los Angeles deputy sheriff; they indicted 24 people on gang-related drug trafficking in an investigation known as Operation Knock-out; they took down an international sex trafficking ring that was forcing Guatemalan girls into prostitution in

Los Angeles; they put a foreign national behind bars for 78 months for participating in the transport of over 9,000 illegal aliens to and from Los Angeles; and they obtained a conviction and 16-year prison sentence against the founder of a domestic terrorist group that was planning attacks on U.S. military operations.

All of those prosecutions have occurred in the last 13 months alone.

André Birotte is a highly qualified individual who has been nominated not to lead an office embroiled in the politics of Washington, but instead that bears responsibility for investigating, prosecuting, deterring, and preventing Federal crimes against Americans and their families.

I do not believe the leadership of this office should get caught up in an unrelated dispute. If someone objects to Mr. Birotte, I hope they will come forward. Otherwise, I hope that we can move forward quickly to confirm this nominee.

#### LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume legislative session.

#### CALLING FOR A RENEWED FOCUS ON THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN'S VIOLATIONS OF HUMAN RIGHTS

Mr. REID. Mr. President, I ask unanimous consent to proceed to the consideration of S. Res. 415.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 415) calling for a renewed focus on the Government of the Islamic Republic of Iran's violations of internationally-recognized human rights as found in the Universal Declaration of Human Rights.

There being no objection, the Senate proceeded to consider the resolution.

Mr. KAUFMAN. Mr. President, today I rise to express support for the people whose voices have been silenced by the Government of Iran. For 8 months, violence has been waged against peaceful protesters. Free speech, free expression, and a free press have been suppressed, and access to information and news has been limited through the jamming of international broadcasting and restrictions on the Internet.

According to a joint statement released by the United States and the EU on Monday, since the flawed Iranian election in June, there have been large scale detentions and mass trials of peaceful demonstrators; threatened executions of protestors; intimidation of family members of those detained; and the continued denial of peaceful expression, contrary to universal norms of human rights.

This statement was issued in advance of today's protests in Iran marking the

31st anniversary of the Islamic revolution, in anticipation of widespread violence and additional arrests which are occurring as we speak. These and other events in Iran represent blatant violations of international standards for human rights. This is why I have come to the floor today—to condemn the repression of the Iranian people, and to call on the government of Iran to bring its unconscionable behavior to an end.

On December 23, the Senate unanimously passed a resolution condemning the government of Iran for ongoing human rights abuses and for suppressing freedom of speech, assembly, expression, and the press. This resolution, which I introduced along with Senators LIEBERMAN, MCCAIN, and others, reiterated the concerns that we also conveyed in the Victims of Iranian Censorship, or VOICE Act, which authorized funding for the development of technology to circumvent online censorship in Iran.

Despite these and other international expressions of solidarity with the Iranian people, the government of Iran has become even more brutal in recent weeks. In a statement released on January 24, Human Rights Watch called the situation in Iran a "human rights disaster." Protestors are not the only group which has been targeted. The Iranian authorities have also launched an aggressive campaign against the press.

On Monday, Iranian state media reported the arrest of seven individuals charged with espionage for alleged ties to the U.S.-funded Farsi-language radio station, Radio Farda. These allegations and arrests coincide with a large-scale crackdown on independent media that has intensified in the past week. In the lead-up to today's demonstrations, Radio Farda broadcasts have been jammed, and there have been widespread service disruptions to the Internet and text message services. These and other government efforts have impeded the free flow of information, news, and basic means of communication.

This is why I will join Senator CASEY and others in introducing another resolution denouncing the atmosphere of impunity in Iran for those who employ intimidation, harassment, or violence to restrict basic freedoms of speech, expression, assembly, and the press. I am also proud to co-sponsor legislation introduced today by Senators MCCAIN, LIEBERMAN, CASEY, BAYH, DURBIN, GILLIBRAND, KYL, COLLINS, GRAHAM, and BROWNBACK which gives the President the ability to impose—at his discretion—sanctions against those Iranians who have committed human rights abuses or acts of violence against civilians engaged in peaceful political activity.

Unfortunately, the grave and deteriorating human rights situation is not the only concern of the international community with regard to Iran. In a speech earlier today, the Iranian president declared Iran a "nuclear state"

due to its ongoing enrichment program. The UN has spoken in one voice—on three separate occasions—repudiating Iran's ongoing enrichment of nuclear material in violation of its international obligations.

As the United Nations considers a fourth round of sanctions against Iran, the United States has imposed a new round of unilateral sanctions. Just yesterday, Treasury announced sanctions targeting the Islamic Revolutionary Guard Corps, or IRGC, for its involvement in spearheading Iran's nuclear and missile programs. As the IRGC continues to consolidate control over the Iranian economy, including the telecommunications sector, it is crucial to ensure that the Government of Iran is held to account for its ongoing violations of international law and activities which have made it a growing threat to global security.

The people taking to the streets in Iran are some of the most courageous in the world, and Congress will continue to reiterate its support for their right to have their voices heard. We will not sit idly by as the Government of Iran continues to deny its people essential freedoms and human rights, and we will put the Iranian Government—or any government which aims to silence its people—on notice that its behavior is unacceptable to the United States.

As President Obama stated in his Nobel Peace Prize acceptance speech:

We will bear witness to the quiet dignity of reformers . . . to the hundreds of thousands who have marched silently through the streets of Iran. It is telling that the leaders of these governments fear the aspirations of their own people more than the power of any other nation. And it is the responsibility of all free people and free nations to make clear to these movements that hope and history are on their side.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first, I thank my friend, the Senator from Delaware, for his strong statement. I thank him for his support of freedom and democracy in Iran. I thank him for his longtime advocacy of human rights. I and others are pleased to have the opportunity to work with him in a common cause of human rights and democracy. I thank the Senator from Delaware.

Mr. KAUFMAN. I thank the Senator.

Mr. MCCAIN. Mr. President, I ask unanimous consent to have a colloquy with the Senator from Connecticut, Mr. LIEBERMAN, and I am aware of the time constraints of being in morning business.

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

Mr. MCCAIN. Mr. President, today is the 31st anniversary of the Islamic Republic. Unfortunately, it is a record that many would rather forget—31 years of economic potential lost, stolen by a corrupt elite. We know what has gone on over the last 31 years.

Right now, as we speak, if anyone watching wants to turn on cable news,

turn on FOX News, they will see videos coming out of Tehran of innocent people, young and old, being beaten and tortured and taken away to prison where unspeakable things are done to them as the people of Iran are standing up and demonstrating, again, their commitment, their courage, their sacrifice on behalf of a free and open democracy and society. We are watching as Iranian men and women, many not more than young boys and girls, are rounded up in their homes and dormitories, hauled away unlawfully to face torture and other abuses in the darkest corners of the country where the eyes of the international community struggle to see. These are unacceptable, unspeakable crimes that are being committed on the Iranian people, and we and the world must stand up against it. I appreciate being part of an effort, along with my friend from Connecticut—both sides, a bipartisan effort—to take action on the part of these people in Iran. Turn on FOX News, I say to my friends. They will see the videos coming out of Tehran of the brutality that is being inflicted on innocent Iranians who are trying to just have the God-given right to freedom and democracy.

I thank my friend from Connecticut. This resolution we are submitting today has two parts. It would require the President to compile a public list of individuals in Iran who, starting with the Presidential election last June, are complicit in human rights violations against Iranian citizens and their families. No matter where in the world these abuses occur, I want to stress this will be a public list. You will know their names. You will know their faces. You will know what they have done. And we will make them famous. They are war criminals, and they should be taken to The Hague for trial. The bill would then ban these Iranian individuals from receiving U.S. visas and impose on them the full battery of sanctions under the International Emergency Economic Powers Act. That means freezing any assets and blocking any property they hold under U.S. jurisdiction, et cetera.

This Nation has always stood for the human rights of people throughout the world. We stood up for the people behind the Iron Curtain. We provided Lech Walesa with a printing press. Now we need to help the Iranian people with the means to use the Internet to communicate, to resist.

I hear back and forth that the Iranian people are without a leader. They have leaders. They have thousands and thousands of leaders who are in the streets right now demonstrating for freedom and putting their very lives at risk.

I thank my colleague from Connecticut and ask him if he has additional comments on this disturbing reality that is unfolding before our eyes as we stand on the floor of the Senate.

Mr. LIEBERMAN. Mr. President, I thank my friend from Arizona, Mr.

MCCAIN, first for his leadership on this issue, which is consistent with a lifetime of support for America's freedom agenda, for the principles that are enshrined in our Declaration of Independence and that have always been at the center of our foreign policy when it has been at its best.

This is a day of history. It is a day of history on the streets of Tehran and other cities in Iran on this 31st anniversary of the Iranian revolution.

I heard a report today. It encapsulates what has happened to that revolution. Today, apparently, the granddaughter of Ayatollah Khamenei was arrested as a street protester. When they realized who she was, they immediately let her go.

Mr. MCCAIN. Will the Senator yield? I also heard that the wife of one of the opposition leaders was beaten in the streets today. Did the Senator hear that?

Mr. LIEBERMAN. Mr. President, I say to my friend, I did. That is the wife of the former Prime Minister, I believe, Mr. Mousavi. His wife was beaten on the streets of Tehran today.

This is a day of history in Tehran, and I hope we can make it a day of history in the U.S. Congress because if this legislation which Senator MCCAIN and I and a bipartisan group of other Senators introduce is adopted, it will be the first time we impose economic sanctions on Iranian leaders for the human rights abuses of their own people.

We have come full circle. We have obviously been concerned about Iran's sponsorship of terrorism. It is still the No. 1 state sponsor of terrorism in the world, according to the State Department. Second, its nuclear weapons program menaces its neighbors in the world. But as so often happens with countries that threaten their neighbors in the world, that have no regard for human life, ultimately we come back to their core. And the core of the Iranian regime is rotten. It is rotten because it treats its own people not just with disrespect but with brutality. As my friend from Arizona has said, look at the television. Look at YouTube. Read the Internet, the text messages about what is happening on the streets of Iran as we speak today: remarkable demonstrations of courage by the people coming out to protest, to simply ask for their freedom, and unbelievable brutality against them for doing nothing more than asking for their universal human rights.

Mr. MCCAIN. Mr. President, I ask my friend, I believe that last year an attempt was made to establish some kind of relationship and dialog with the Iranian Government—in other words, to have an unclenched fist. Will my friend comment on what success that has been?

Mr. LIEBERMAN. Yes, indeed. I thank the Senator from Arizona. President Obama adopted the policy of reaching out to the Iranian regime. Personally, I thought he did the right

thing. What he got in return for his outstretched hand was a clenched fist.

I think the only thing constructive that has come out of this attempt to engage the Iranians, to begin a new chapter, to give them a peaceful way to avoid conflict with the rest of the world, the only constructive result of it is that we see that the problem in the relations between the United States and Iran is not the United States, it is the oppressive, extremist regime in Tehran.

I think it is clear that President Obama has not only been disappointed but grows impatient and, I will say from what I perceive, angered by what has happened. That explains the increasing move, including just in the last day or two, of the imposition of new sanctions on companies related to the Iranian Revolutionary Guard Corps and individuals. This regime will not stop its nuclear weapons program, in my opinion, will not stop its support of terrorist killers, will not stop suppressing the human rights of its people unless it feels pain, unless it feels that perhaps its regime is in jeopardy. We can only do that now with tough sanctions, such as those that are proposed in the legislation we introduce today.

Mr. MCCAIN. Mr. President, I say to my friend from Connecticut, isn't it also true that there are certain elements who say: Don't do these things—the sanctions and actions we are trying to take—you only hurt the Iranian people. Isn't it true that the demonstrators in the streets of Tehran were chanting: Obama, Obama, are you with us or are you with them?

What would be the effect on the Iranian people if we impose these sanctions?

Mr. LIEBERMAN. The Senator from Arizona is very clear that these sanctions directed against the thugs in the Iranian Government who brutally suppress the rights of their own people will be very popular with the people of Iran. In my opinion, the economic sanctions that would be imposed in the legislation that passed the Senate unanimously about 10 days ago—those sanctions are tough, but if we have any hope of achieving an end to the Iranian nuclear weapons program through diplomacy, it has to be coupled with tough economic sanctions or else we will be left with no alternative but military action.

There is a difference between the regime in Iran and the people of Iran. The people of Iran want a change in the regime, it is clear. There is nothing inherently at odds between the American people and the people of Iran. As a matter of fact, we have all sorts of histories and values and goals in common. The problem is the extremist, brutal, aggressive regime in Tehran, and the sooner it goes, the better.

I hope the people of Iran hear this legislation we are introducing today, under the leadership of Senator MCCAIN, as an expression of unanimity across party lines and ideological lines

on behalf of the people of America that we stand with the people of Iran against the Government of Iran as it attempts to suppress the people.

Mr. MCCAIN. Finally, I would like to ask my friend, we were together in Munich over the weekend. The Foreign Minister of Iran came and spoke. I wish everyone in the world could have seen that performance—one, a complete denial that they are on the path to acquisition of nuclear weapons, and, perhaps as important, a denial that any human rights abuses were taking place anywhere in that country. It was a remarkable display of hypocrisy and outright lying.

Mr. LIEBERMAN. Mr. President, I was with Senator MCCAIN. It was such a baldfaced lie because we see Mr. Motaki get up and say Iran is the most democratic regime in the entire Middle East region and beyond and says, with regard to our complaints and the Europeans' complaints about the suppression of the rights of the Iranian people, the execution of political demonstrators, the jailing of thousands of peaceful political protesters, that is the law and if they violated the criminal law, they would be punished for it. When somebody is so detached from the truth as we know it from what we see with our own eyes, it is hard to trust them otherwise.

I wish to add a word. If we adopt this proposal, as I believe we can and will when the general Iranian sanctions bill comes back from conference, we will have taken a significant first step in the direction of penalties on the Iranian regime for human rights abuses of its own people.

I want to use this, and I ask my friend if he agrees that the impact of this legislation would be magnified many times over if our allied governments around the world, particularly in Europe, which has a tradition of support for human rights, also joined us in adopting laws that impose targeted sanctions against human rights abusers in Iran? It does not require previous U.N. Security Council action. There is nothing stopping our Congress or the EU from imposing targeted human rights sanctions as quickly as possible. I ask my friend if that would not make the power of what we hope to do in Congress many times more effective against the tyrants in Tehran.

Mr. MCCAIN. I know we are running out of time, but I want to say to my friend that history does repeat itself. There was a time during the Cold War when Ronald Reagan spoke out and mentioned Natan Sharansky's name and he was beaten for it. People said he shouldn't have done that, but Ronald Reagan said: Take down this wall. People said that was provocative toward the Soviet Union. You know what Natan Sharansky said, after he was released from the prison? He said: Those words reverberated throughout the gulag and gave hope for democracy and freedom, and made them even more steadfast and encouraged them in the

face of the brutality they underwent in the Soviet gulag.

That is the same message we are sending to the Iranian people with this legislation. I hope we will enact it soon. We will not slack nor will we give up until the Iranian people have their God-given rights restored to them.

Mr. President, I yield the remainder of my time.

Mr. LIEBERMAN. Mr. President, over the past several months, the Iranian government has carried out an unprecedented campaign of repression and violence against the Iranian people. Its targets have spanned everyone from religious clerics to women's rights advocates, as well as bloggers, students, photographers, children's advocates, human rights activists, journalists, and members of the political opposition. In fact, according to Reporters Without Borders, Iran now has more journalists in prison than any other country in the world.

The targets of the Iranian regime's crackdown have suffered numerous and varied human rights abuses. Some have been dragged out of their homes and away from their families in the middle of the night, disappearing without charge and without process of law. Others have been beaten and tortured while in government custody, and in some cases, sexually abused. Still others have been prosecuted in mass trials by revolutionary courts and punished with draconian prison sentences, for no reason other than their political beliefs. And some have been executed. Human Rights Watch has rightly condemned Iran's crackdown "a human rights disaster."

These abuses are ongoing. Just in the last few hours, despite the efforts of the Iranian government to control the flow of information from their country, videos have gone up on YouTube showing peaceful protesters on the streets of Iranian cities being violently broken up, and individual Iranian citizens brutally beaten, by members of the Iranian security forces.

These human rights abuses are a clear violation of multiple international agreements signed by the Iranian government, such as the International Covenant on Civil and Political Rights.

To be clear, this isn't about the outside world dictating our values to Iran. This is about the failure of Iran's own leaders to live up to the international human rights obligations that they themselves voluntarily committed to, both through the international agreements they have signed and through their own constitution. All we are asking of Iran's leaders is that they respect their own laws. Unfortunately, it is increasingly clear that Iran's government does not respect its obligations—whether with regard to human rights record or its nuclear activities.

The legislation that we are introducing today has a clear purpose; namely, to shine a bright light onto the human rights abuses being com-

mitted in Iran as we speak, and make clear to the people who are perpetrating them that there is going to be a cost to be paid for doing so.

I am very encouraged that this legislation has already won the support of a broad bipartisan coalition of cosponsors—many of whom unfortunately could not be here today because of the weather. They include Senators DURBIN, KYL, BAYH, COLLINS, CASEY, BROWNBACK, GILLIBRAND, GRAHAM, and KAUFMAN.

I would especially like to thank my colleague Senator MCCAIN for his leadership on this issue. As he mentioned, Senator MCCAIN sought to attach an earlier version of this legislation as an amendment to the comprehensive Iran sanctions bill that was then on the floor of the Senate and that the Senate unanimously passed. Although we were unable to attach Senator MCCAIN's amendment to the broader sanctions bill at that time for procedural reasons, I remain very hopeful that the human rights legislation we are introducing today will become part of the comprehensive Iran sanctions bill when the House and Senate meet in conference.

And I hope that President Obama will aggressively apply these sanctions once they are signed into law.

More broadly, I hope that the Obama administration will make human rights a centerpiece of our Iran policy in the days and weeks ahead. I understand that, on Monday, there will be what is called a "Universal Periodic Review" of Iran's human rights record at the U.N. Human Rights Council in Geneva, and that the administration hopes to use this event to shine a spotlight on the human rights abuses that are being committed there. I welcome that initiative, and appeal to other countries to support it as well.

Finally, I would like to appeal to our international partners, in particular in the European Union, to join us in imposing these kinds of targeted sanctions against human rights abusers in Iran. We all know what the Iranian regime has been doing to its people, and I hope that Europeans in particular—given the importance they attach to human rights—will not turn a blind eye to these abuses. We don't need to wait for a U.N. Security Council resolution to do this. There is nothing stopping the EU from imposing target human rights sanctions right now.

Mr. President, this is a piece of legislation that has significance if it is adopted, in effect, we hope, but this is also our way—the 10 of us who have sponsored this legislation, and I would guess every Member of the Senate when it comes to a vote will vote for it—to say to two groups of people, first, the government in Iran, that we see what you are doing, we know what you are doing, it is intolerable, it is unacceptable, and you will be punished for it; and secondly, to say to the people of Iran—who have the courage to be in the streets protesting and asking for

the rights their government is supposed to give them according to international treaties that Iran itself has signed—we are with you.

The struggle for freedom and justice against tyranny is often a long one, it is always a hard one, but history tells us that, in the end, freedom and justice prevail. That means the people of Iran will prevail over the totalitarian government that now brutally rules them.

I thank the Chair, I thank my friend from Arizona for his leadership, and I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 415) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 415

Whereas the Government of the Islamic Republic of Iran has violated international standards for human rights by using violence to disperse peaceful assemblies by its own citizens;

Whereas the Government of the Islamic Republic of Iran suppressed peaceful commemorations by members of Iran's Green Movement at the anniversary of Iran's Islamic revolution on February 11, 2010;

Whereas the Government of the Islamic Republic of Iran's sustained campaign of violence against Iranian citizens who have peacefully protested the irregularities in the flawed Iranian presidential elections of June 12, 2009 has demonstrated to the world that the present Iranian regime is fully capable of widespread violence against its own citizens;

Whereas the Government of the Islamic Republic of Iran currently has 65 journalists and bloggers imprisoned, more than any single country in the world, according to Reporters Without Borders and in the past week arrested 10 journalists;

Whereas the Government of the Islamic Republic of Iran has restricted access to the internet, including its recent announcement to permanently block Google's Gmail service;

Whereas Iranian citizen's right to due process has been violated, with the judiciary detaining government critics and religious minorities, and ordering executions of peaceful demonstrators;

Whereas the use of arbitrary detention and the infliction of cruel and degrading punishments by the Iranian authorities are in direct violation of Articles 7, 9 and 10 of the International Covenant on Civil and Political Rights (ICCPR) as well as Articles 22 (the right to human dignity), 36 (Sentencing in accordance with the law), 38 (prohibition of torture) and 39 (the rights of arrested persons) of the Iranian Constitution.

*Resolved*, That the Senate of the United States:

(1) pays tribute to the courageous advocates for democracy and human rights in the Islamic Republic of Iran who are engaged in peaceful efforts to encourage democratic reform;

(2) notes that it is the right of the people of the Islamic Republic of Iran to peacefully

assemble and to express their opinions and aspirations without intimidation, repression, and violence;

(3) supports freedom of speech in the Islamic Republic of Iran as elsewhere and the ability of journalists and bloggers to report without repression by government authorities;

(4) desires that the men and women of Iran be able to enjoy due process in the Iranian judicial system including the right to a fair trial;

(5) expresses serious concern over the Government of the Islamic Republic of Iran's brutal suppression of its citizens through censorship, imprisonment, and continued acts of violence;

(6) denounces the atmosphere of impunity in the Islamic Republic of Iran for those who employ intimidation, harassment, or violence to restrict and suppress freedom of speech, freedom of expression, freedom of assembly, and freedom of the press;

(7) urges the Government of the Islamic Republic of Iran to fully observe the ICCPR, which has been ratified by the Islamic Republic of Iran and states, "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

(8) calls upon the Islamic Republic of Iran to abide by the resolutions adopted by the U.N. General Assembly, in particular the resolution on the situation of human rights in the Islamic Republic of Iran of December 2009;

(9) communicates deep concern that, despite the Islamic Republic of Iran's standing invitation to all thematic special procedures mandate holders, it has not fulfilled any requests from those special mechanisms to visit the country in four years and has not answered numerous communications from those special mechanisms, and strongly urges the Government of the Islamic Republic of Iran to fully cooperate with the special mechanisms, especially the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances;

(10) encourages the UN Human Rights Council to fully examine these issues during its Universal Periodic Review of the Islamic Republic of Iran on February 15, 2010.

Mr. REID. Mr. President, I would briefly say I appreciate this being accepted. I spoke to Senator McCain earlier today. He and Senator Lieberman gave speeches on the Senate floor today regarding human rights in Iran. They are very timely and I appreciate their statements.

#### PROVIDING FOR ADJOURNMENT AND/OR RECESS OF THE HOUSE AND SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 235, the adjournment resolution.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 235) providing for a conditional adjournment or recess of the two Houses.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 235) was agreed to, as follows:

#### H. CON. RES. 235

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on any legislative day from Tuesday, February 9, 2010, through Saturday, February 13, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, February 22, 2010, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Wednesday, February 10, 2010, through Sunday, February 14, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 22, 2010, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

#### ORDER FOR APPOINTMENT AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

#### ORDERS FOR MONDAY, FEBRUARY 22, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of H. Con. Res. 235 until 2 p.m., Monday, February 22; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two

leaders be reserved for their use later in the day, and that Senator BURRIS then be recognized to deliver Washington's Farewell Address; further, that upon the conclusion of the reading, the Senate resume consideration of the motion to concur with an amendment to the House amendment to the Senate amendment to H.R. 2847, the CJS Appropriations Act, the vehicle being used for the Jobs for Main Street Act, as provided for under the previous order.

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

### PROGRAM

Mr. REID. Mr. President, for the information of Senators, at 5:30 p.m. on Monday, February 22, the Senate will proceed to a cloture vote on the jobs bill. That will be the first vote of the day.

### ADJOURNMENT UNTIL MONDAY, FEBRUARY 22, 2010, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 6:47 p.m., adjourned until Monday, February 22, 2010, at 2 p.m.

### NOMINATIONS

Executive nominations received by the Senate:

#### FARM CREDIT ADMINISTRATION

SARA LOUISE FAIVRE-DAVIS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE FRED L. DAILEY, RESIGNED.

LOWELL LEE JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION. (REAPPOINTMENT)

MYLES J. WATTS, OF MONTANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE GRACE TRUJILLO DANIEL.

#### BROADCASTING BOARD OF GOVERNORS

RICHARD M. LOBO, OF FLORIDA, TO BE DIRECTOR OF THE INTERNATIONAL BROADCASTING BUREAU, BROADCASTING BOARD OF GOVERNORS, VICE SETH CROPSY.

### CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, February 11, 2010:

#### DEPARTMENT OF STATE

BETTY E. KING, OF NEW YORK, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE OFFICE OF THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA, WITH THE RANK OF AMBASSADOR.

#### DEPARTMENT OF HOMELAND SECURITY

CARYN A. WAGNER, OF VIRGINIA, TO BE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY.

#### DEPARTMENT OF LABOR

SARA MANZANO-DIAZ, OF PENNSYLVANIA, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR.

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

PATRICK ALFRED CORVINGTON, OF MARYLAND, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

#### DEPARTMENT OF VETERANS AFFAIRS

ROBERT A. PETZEL, OF MINNESOTA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS.

#### DEPARTMENT OF COMMERCE

NICOLE YVETTE LAMB-HALE, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

#### DEPARTMENT OF THE TREASURY

MARISA LAGO, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

ELLEN GLONINGER MURRAY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

BRYAN HAYES SAMUELS, OF ILLINOIS, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

#### DEPARTMENT OF THE TREASURY

CHARLES COLLYNS, OF MARYLAND, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

MARY JOHN MILLER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

#### DEPARTMENT OF DEFENSE

MARY SALLY MATIELLA, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.  
DOUGLAS B. WILSON, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

IRVIN M. MAYFIELD, JR., OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014.

#### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

CYNTHIA L. ATTWOOD, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2013.

#### SECURITIES INVESTOR PROTECTION CORPORATION

SHARON Y. BOWEN, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2012.

ORLAN JOHNSON, OF MARYLAND, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2011.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DOUGLAS A. CRISCITELLO, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

THEODORE W. TOZER, OF OHIO, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

#### DEPARTMENT OF COMMERCE

DAVID W. MILLS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

SURESH KUMAR, OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

KEVIN WOLF, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

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.

#### UNITED STATES SENTENCING COMMISSION

KETANJI BROWN JACKSON, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2013.

#### DEPARTMENT OF JUSTICE

SUSAN B. CARBON, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE.

ANDRE BIROTTE, JR., OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

RICHARD S. HARTUNIAN, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

RONALD C. MACHEN, JR., OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

# Daily Digest

## HIGHLIGHTS

Senate agreed to H. Con. Res. 235, Adjournment Resolution.

## Senate

### Chamber Action

*Routine Proceedings, pages S545–S593*

**Measures Introduced:** Five bills and three resolutions were introduced, as follows: S. 3007–3011, and S. Res. 415–417. **Page S569**

#### Measures Passed:

**Adjournment Resolution:** Senate agreed to H. Con. Res. 235, providing for an adjournment or recess of the two Houses. **Page S592**

**Violations of Internationally-Recognized Human Rights in Iran:** Senate agreed to S. Res. 415, calling for a renewed focus on the Government of the Islamic Republic of Iran's violations of internationally-recognized human rights as found in the Universal Declaration of Human Rights. **Pages S589–92**

#### Measures Considered:

**Commerce, Justice, Science, and Related Agencies Appropriations Act:** Senate began consideration of the amendment of the House of Representatives to the amendment of the Senate to H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, after taking action on the following motions and amendments proposed thereto: **Pages S559–60**

#### Pending:

Senator Reid entered a motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid Amendment No. 3310 (to the House Amendment to the Senate Amendment), in the nature of a substitute. **Page S559**

Reid Amendment No. 3311 (to Amendment No. 3310), to change the enactment date. **Page S559**

Senator Reid entered a motion to refer in the amendment of the House to the amendment of the Senate to the Committee on Appropriations, with instructions, Reid Amendment No. 3312, to provide for a study. **Page S559**

Reid Amendment No. 3313 (to Amendment No. 3312), of a perfecting nature. **Pages S559–60**

Reid Amendment No. 3314 (to Amendment No. 3313), of a perfecting nature. **Page S560**

A motion was entered to close further debate on the Reid motion to concur with an amendment to the amendment of the House to the amendment of the Senate to the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, and pursuant to the unanimous-consent agreement of Thursday, February 11, 2010, a vote on cloture will occur at 5:30 p.m. on Monday, February 22, 2010. **Page S559**

A unanimous-consent agreement was reached providing that Senate resume consideration of the motion to concur with an amendment to the amendment of the House to the amendment of the Senate to the bill following Senator Burris delivering Washington's Farewell Address on Monday, February 22, 2010. **Pages S592–93**

**Authorizing Leadership to Make Appointments—Agreement:** A unanimous-consent agreement was reached providing that, notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President Pro Tempore, and the Majority and Minority Leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S592**

**Message from the President:** Senate received the following message from the President of the United States:

Transmitting, pursuant to law, the Economic Report of the President dated February 2010 with the Annual Report of the Council of Economic Advisers for 2010; which was referred to the Joint Economic Committee. (PM–45) **Pages S567–69**

**Nominations Confirmed:** Senate confirmed the following nominations:

Ellen Gloninger Murray, of Virginia, to be an Assistant Secretary of Health and Human Services.

Bryan Hayes Samuels, of Illinois, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

Ketanji Brown Jackson, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2013.

Irvin M. Mayfield, Jr., of Louisiana, to be a Member of the National Council on the Arts for a term expiring September 3, 2014.

Marisa Lago, of New York, to be an Assistant Secretary of the Treasury.

Sara Manzano-Diaz, of Pennsylvania, to be Director of the Women's Bureau, Department of Labor.

Charles Collins, of Maryland, to be a Deputy Under Secretary of the Treasury.

Patrick Alfred Corvington, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Susan B. Carbon, of New Hampshire, to be Director of the Violence Against Women Office, Department of Justice.

Mary John Miller, of Maryland, to be an Assistant Secretary of the Treasury.

Betty E. King, of New York, to be Representative of the United States of America to the Office of the United Nations and Other International Organizations in Geneva, with the rank of Ambassador.

Caryn A. Wagner, of Virginia, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security.

Suresh Kumar, of New Jersey, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Douglas A. Criscitello, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

Cynthia L. Attwood, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2013.

Nicole Yvette Lamb-Hale, of Michigan, to be an Assistant Secretary of Commerce.

Robert A. Petzel, of Minnesota, to be Under Secretary for Health of the Department of Veterans Affairs.

Mary Sally Mantiella, of Arizona, to be an Assistant Secretary of the Army.

Sharon Y. Bowen, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2012.

Orlan Johnson, of Maryland, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2011.

David W. Mills, of Virginia, to be an Assistant Secretary of Commerce.

Douglas B. Wilson, of Arizona, to be an Assistant Secretary of Defense.

Theodore W. Tozer, of Ohio, to be President, Government National Mortgage Association.

Kevin Wolf, of Virginia, to be an Assistant Secretary of Commerce.

André, Birotte, Jr., of California, to be United States Attorney for the Central District of California for the term of four years.

Richard S. Hartunian, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

Ronald C. Machen, Jr., of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years. **Pages S587, S593**

**Nominations Received:** Senate received the following nominations:

Sara Louise Faivre-Davis, of Texas, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Lowell Lee Junkins, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Myles J. Watts, of Montana, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Richard M. Lobo, of Florida, to be Director of the International Broadcasting Bureau, Broadcasting Board of Governors. **Pages S587–89, S593**

**Executive Reports of Committees:** **Page S569**

**Additional Cosponsors:** **Pages S569–70**

**Statements on Introduced Bills/Resolutions:** **Pages S570–75**

**Additional Statements:** **Pages S562–67**

**Amendments Submitted:** **Pages S575–87**

**Authorities for Committees to Meet:** **Page S587**

**Adjournment:** Senate convened at 2:30 p.m. and adjourned, pursuant to the provisions of H. Con. Res. 235, at 6:47 p.m., until 2 p.m. on Monday, February 22, 2010. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S593.)

## Committee Meetings

*(Committees not listed did not meet)*

### FISCAL SUSTAINABILITY

*Committee on the Budget:* Committee concluded a hearing to examine setting and meeting an appropriate target for fiscal sustainability, after receiving testimony from Alice M. Rivlin, Brookings Institution, Maya MacGuineas, Committee for a Responsible

Federal Budget, and Rudolph G. Penner, Urban Institute, all of Washington, D.C.

#### BUSINESS MEETING

*Committee on Indian Affairs:* Committee ordered favorably reported the nomination of Lillian A. Sparks, of Maryland, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

#### NOMINATIONS

*Committee on the Judiciary:* Committee concluded a hearing to examine the nominations of Gloria M. Navarro, to be United States District Judge for the District of Nevada, who was introduced by Senator Reid, Audrey Goldstein Fleissig, to be United States District Judge for the Eastern District of Missouri, who was introduced by Senator McCaskill, Lucy Haeran Koh, to be United States District Judge for the Northern District of California, who was introduced by Senator Boxer, and Jon E. DeGuilio, to be United States District Judge for the Northern District of Indiana, and Tanya Walton Pratt, and Jane E. Magnus-Stinson, both to be United States District Judge for the Southern District of Indiana, who were

each introduced by Senator Bayh, after the nominees testified and answered questions in their own behalf.

#### BUSINESS MEETING

*Committee on the Judiciary:* Committee ordered favorably reported the nominations of Genevieve Lynn May, to be United States Marshal for the Eastern District of Louisiana, and James P. Lynch, of the District of Columbia, to be Director of the Bureau of Justice Statistics, both of the Department of Justice, and Nancy D. Freudenthal, to be United States District Judge for the District of Wyoming, Denzil Price Marshall Jr., to be United States District Judge for the Eastern District of Arkansas, Benita Y. Pearson, to be United States District Judge for the Northern District of Ohio, and Timothy S. Black, to be United States District Judge for the Southern District of Ohio.

#### INTELLIGENCE

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

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## House of Representatives

### *Chamber Action*

The House was not in session today. The House is scheduled to meet at 2 p.m. on Monday, February 22, 2010, pursuant to the provisions of H. Con. Res. 235.

### *Committee Meetings*

No committee meetings were held.

### *Joint Meetings*

No joint committee meetings were held.

### COMMITTEE MEETINGS FOR FRIDAY, FEBRUARY 12, 2010

*(Committee meetings are open unless otherwise indicated)*

#### Senate

*Committee on Banking, Housing, and Urban Affairs:* Subcommittee on Security and International Trade and Finance, to hold hearings to examine equipping financial regulators with the tools necessary to monitor systemic risk, 2:30 p.m., SD-538.

#### House

No committee meetings are scheduled.

*Next Meeting of the SENATE*

2 p.m., Monday, February 22

*Next Meeting of the HOUSE OF REPRESENTATIVES*

2 p.m., Monday, February 22

## Senate Chamber

**Program for Monday:** Senator Burriss will be recognized to deliver Washington's Farewell Address; following which, Senate will resume consideration of the motion to concur with an amendment to the amendment of the House of Representatives to the amendment of the Senate to H.R. 2847, Commerce, Justice, Science, and Related Agencies Appropriations Act, and after a period of debate, vote on the motion to invoke cloture on the motion to concur with an amendment thereon at 5:30 p.m.

## House Chamber

**Program for Monday:** To be announced.



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