insurance exchanges. Then they would be eligible for government subsidies.

Let me state that another way: They would be eligible for taxpayer-paid subsidies to cover that cost. This will cause the actual cost of the bill to skyrocket. From almost a year ago until early this year, many of us warned that this law was built on the shakiest of policy grounds and even shakier projections relative to its financing. Yet proponents said don't worry. As we go forward, though, expect more bad news about this very flawed piece of policy.

The White House can do all it wants to try to convince Americans of the merits of this law. But you know what. When Americans lose the insurance they like and businesses struggle to grow and expand, Americans will wonder how Congress could have been so foolish to pass such poor policy.

Many warned this was coming. Unfortunately, the warnings were ignored in the effort to try to get this passed. I remember standing here on Christmas Eve, voting against this piece of legislation.

But this new law is far from reform. It spends $2.6 trillion to take this great Nation in the wrong direction. Now, hopefully, I pray that in the near future more rational minds can agree on a more rational national policy. But until then, the adverse consequences will continue to fill the headlines and, more important and sadly, Americans will be hit by the realities of this flawed policy. They will have no recourse if one day their boss walks in and announces that it is more cost-efficient for this company to say to them: Go to the exchange. We will not be providing a health insurance plan. You see, in this country employees do not work by contract.

My hope is we can agree on a more efficient policy before we are left wondering why there are so many broken promises.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 4899, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment and an amendment to the title.

[Strike out all after the enacting clause and insert the part printed in italic.]

H.R. 4899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: guaranteed farm ownership loans, $300,000,000; operating loans, $650,000,000, of which $250,000,000 shall be for unsubsidized guaranteed loans, $50,000,000 shall be for subsidized guaranteed loans, and $350,000,000 shall be for direct loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: guaranteed farm ownership loans, $1,110,000; operating loans, $29,470,000, of which $5,850,000 shall be for unsubsidized guaranteed loans, $7,030,000 shall be for subsidized guaranteed loans, and $16,590,000 shall be for direct loans.

For an additional amount for administrative expenses necessary to carry out the direct and guaranteed loan programs, $1,000,000.

EMERGENCY FOREST RESTORATION PROGRAM

For implementation of the emergency forest restoration program established under section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206) for expenses resulting from natural disasters that occurred on or after January 1, 2010, and for other purposes, $18,000,000, to remain available until expended: Provided, That the program: (1) shall be carried out without regard to chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'') and the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (2) with rules issued without a prior opportunity for notice and comment except, as determined to be appropriate by the Farm Service Agency, rules may be promulgated by an interim rule effective on publication with an opportunity for notice and comment: Provided further, That in carrying out this program, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code: Provided further, That to reduce Federal costs in administering this heading, the emergency forest restoration program shall be considered to have met the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for activities similar in nature and quantity to those of the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.).

FOREIGN AGRICULTURAL SERVICE

FOOD FOR PEACE TITLE II GRANTS

For an additional amount for ''Food for Peace Title II Grants'' for emergency relief and rehabilitation, and other expenses related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $150,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SECTION 101. None of the funds appropriated or made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a biomass crop assistance program as authorized by section 9011 of Public Law 107–171 in excess of $552,000,000 in fiscal year 2010 or $432,000,000 in fiscal year 2011: Provided, That section 3002 shall not apply to the amount under this section.

SEC. 102. (a) Section 502(h)(8) of the Housing Act of 1949 (42 U.S.C. 1472(h)(8)) is amended to read as follows:

''(8) FEES.—Notwithstanding paragraph (14)(D), with respect to a guaranteed loan issued or modified under this subsection, the Secretary may collect from the lender—

''(A) at the time of issuance of the guarantee or modification, a fee not to exceed 3.5 percent of the principal obligation of the loan; and

''(B) an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan.''.

(b) Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2001 (H.R. 5426 as enacted by Public Law 106–387, 115 Stat. 1549A–34) is repealed.

(c) For gross obligations for the principal amount of guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, an additional amount shall be for section 502 unsubsidized guaranteed loans sufficient to meet the remaining fiscal year 2010 demand, provided that existing program underwriting standards are maintained, and provided further that the Secretary may waive fees described herein for very low- and low-income borrowers, not to exceed $697,000,000 in loan guarantees.

CHAPTER 2

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

(RESCISSION)

Of the funds made available under the heading ''National Telecommunications and Information Administration'' for Digital-to-Analog Converter Box Program in prior years, $111,500,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for ''Economic Development Assistance Programs'', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in States that experienced damage due to severe storms and flooding during March 2010 through May 2010 for which the President declared a major disaster covering an entire State or States with more than 20 counties declared major disasters under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $49,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $5,000,000, for necessary expenses related to commercial fishery failures as determined by the Secretary of Commerce in January 2010.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION

The matter contained in title III of division B of Public Law 111–117 regarding ''National Aeronautics and Space Administration Exploration'' is amended by inserting at the end of the last proviso '': Provided further, That notwithstanding any other provision of law or regulation, funds made available for Constellation in fiscal year 2010 for 'National Aeronautics and Space Administration Exploration' and from previous appropriations for 'National Aeronautics and Space Administration Exploration' shall be available to fund continued performance of Constellation contracts, and performance of such Constellation contracts may not be terminated for convenience by the National Aeronautics and Space Administration in fiscal year 2010''.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $1,429,809,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $40,478,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $145,499,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $94,068,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $5,722,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $2,637,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $34,758,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $1,292,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $33,184,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $11,719,927,000, of which $218,300,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,735,194,000, of which $187,600,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $829,326,000, of which $30,700,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $3,835,095,000, of which $218,400,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $1,236,727,000: Provided, That up to $50,000,000, to remain available until expended, shall be available for transfer to the Port of Guam Improvement Enterprise Fund established by section 3512 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417): Provided further, That funds transferred under the previous proviso shall be merged with and available for obligation for the same time period and for the same purposes as the appropriation to which transferred: Provided further, That these funds may be transferred by the Secretary of Defense only if he determines such amounts are required to improve facilities, relieve port congestion, and provide greater access to port facilities: Provided further, That any amounts transferred pursuant to the previous three provisos shall be available to the Secretary of Transportation, acting through the Administrator of the Maritime Administration, to carry out under the Port of Guam Improvement Enterprise Program planning, design, and construction of projects for the Port of Guam to improve facilities, relieve port congestion, and provide greater access to port facilities: Provided further, That the transfer authority in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than five days prior to making transfers under this authority, notify the congressional defense committees in writing of the details of any such transfer.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $41,006,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $75,878,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $857,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $124,039,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $180,960,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $203,287,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for ''Afghanistan Security Forces Fund'', $2,604,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

IRAQ SECURITY FORCES FUND

For the ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Forces—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, and renovation: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $219,470,000, to remain available until September 30, 2012.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $3,000,000, to remain available until September 30, 2012.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $17,055,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $2,065,006,000, to remain available until September 30, 2012.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $296,000,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $31,576,000, to remain available until September 30, 2012.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $162,927,000, to remain available until September 30, 2012.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $174,766,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $672,741,000, to remain available until September 30, 2012.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $189,276,000, to remain available until September 30, 2012.

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Mine Resistant Ambush Protected Vehicle Fund'', $1,123,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only to appropriations for operations and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That the funds transferred shall be merged with and available for the same purposes and the same time period as the appropriation to which they are transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than 10 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $44,835,000, to remain available until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $163,775,000, to remain available until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $65,138,000, to remain available until September 30, 2011.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $1,134,887,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $33,367,000 for operation and maintenance: Provided, That language under this heading in title VI, division A of Public Law 111–118 is amended by striking ''$15,093,539,000'' and inserting in lieu thereof ''$15,121,714,000''.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $94,000,000, to remain available until September 30, 2011.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)): Provided, That section 8079 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118; 123 Stat. 3446) is amended by striking ''fiscal year 2010 until'' and all that follows and insert ''fiscal year 2010.''.

(INCLUDING TRANSFER OF FUNDS)

SEC. 302. Section 8005 of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118) is amended by striking ''$4,000,000,000'' and inserting ''$4,500,000,000''.

SEC. 303. Funds made available in this chapter to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: Provided, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000.

SEC. 304. Of the funds obligated or expended by any Federal agency in support of emergency humanitarian assistance services at the request of or in coordination with the Department of Defense, the Department of State, or the U.S. Agency for International Development, on or after January 12, 2010 and before February 12, 2010, in support of the Haitian earthquake relief efforts not to exceed $500,000 are deemed to be specifically authorized by the Congress.

SEC. 305. Section 8011 of the title VIII, division A of Public Law 111–118 is amended by striking ''within 30 days of enactment of this Act'' and inserting in lieu thereof ''30 days prior to contract award''.

(RESCISSIONS)

SEC. 306. (a) Of the funds appropriated in Department of Defense Appropriation Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

''Other Procurement, Air Force, 2009/2011'', $5,000,000; and

''Research, Development, Test and Evaluation, Army, 2009/2010'', $72,161,000.

(b) Section 3002 shall not apply to the amounts in this section.

SEC. 307. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal years 2009 or 2010 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

HIGH-VALUE DETAINEE INTERROGATION GROUP CHARTER AND REPORT

SEC. 308. (a) SUBMISSION OF CHARTER AND PROCEDURES.—Not later than 30 days after the final approval of the charter and procedures for the interagency body established to carry out an interrogation pursuant to a recommendation of the report of the Special Task Force on interrogation and Transfer Policies submitted under section 5(g) of Executive Order 13491 (commonly known as the High-Value Detainee Interrogation Group), or not later than 30 days after the date of the enactment of this Act, whichever is later, the Director of National Intelligence shall submit to the congressional intelligence committees such charter and procedures.

(b) UPDATES.—Not later than 30 days after the final approval of any significant modification or revision to the charter or procedures referred to in subsection (a), the Director of National Intelligence shall submit to the congressional intelligence committees any such modification or revision.

(c) LESSONS LEARNED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report setting forth an analysis and assessment of the lessons learned as a result of the operations and activities of the High-Value Detainee Interrogation Group since the establishment of that group.

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for ''Investigations'', $5,400,000: Provided, That funds provided under this heading in this chapter shall be used for studies in States affected by severe storms and flooding: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' to dredge eligible projects in response to, and repair damages to Federal projects caused by, natural disasters, $18,600,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation projects in response to, and repair damages to Corps projects caused by, natural disasters, $173,000,000, to remain available until expended: Provided, That the Secretary of the Army is directed to use $44,000,000 of the amount provided under this heading for nondisaster related emergency repairs to critical infrastructure: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to natural disasters as authorized by law, $20,000,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 401. Funds made available in the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85), under the account ''Weapons Activities'' shall be available for the purchase of not to exceed one aircraft.

RECLASSIFICATION OF CERTAIN APPROPRIATIONS FOR THE NATIONAL NUCLEAR SECURITY ADMINISTRATION

SEC. 402. (a) FISCAL YEAR 2009 APPROPRIATIONS.—The matter under the heading ''Weapons Activities'' under the heading ''National Nuclear Security Administration'' under the

heading ''Atomic Energy Defense Activities'' under the heading ''Department of Energy'' under title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 621) is amended by striking ''the 09–D–007 LANSCE Refurbishment, PED,'' and inserting ''capital equipment acquisition, installation, and associated design funds for LANSCE,''.

(b) FISCAL YEAR 2010 APPROPRIATIONS.—The amount appropriated under the heading ''Weapons Activities'' under the heading ''National Nuclear Security Administration'' under the heading ''Atomic Energy Defense Activities'' under the heading ''Department of Energy'' under title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85; 123 Stat. 2866) and made available for LANSCE Reinvestment, PED, Los Alamos National Laboratory, Los Alamos, New Mexico, shall be made available instead for capital equipment acquisition, installation, and associated design funds for LANSCE, Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 403. (a) Section 104(c) of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) is amended by striking ''September 30, 2010'' and inserting ''September 30, 2012'' in lieu thereof.

(b) Section 301 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2241) is amended by striking ''through 2010'' and inserting ''through 2012'' in lieu thereof.

SEC. 404. (a) The Secretary of the Army shall not be required to make a determination under the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) for the project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 [59 Stat. 18], as modified by section 5141 of the Water Resources Development Act of 2007 [121 Stat. 1253].

(b) The Federal Highway Administration is exempt from the requirements of 49 U.S.C. 303 and 23 U.S.C. 138 for any highway project to be constructed in the vicinity of the Dallas Floodway, Dallas, Texas.

CHAPTER 5

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $690,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available for necessary expenses of the Office of Inspector General under this heading in Public Law 111–117, $1,800,000 are rescinded: Provided, That section 3002 shall not apply to the amount under this heading.

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

(INCLUDING RESCISSION)

For an additional amount for ''Federal Payment to the Public Defender Service for the District of Columbia'', $700,000, to remain available until September 30, 2012.

Of the funds provided under this heading for ''Federal Payment to the District of Columbia Public Defender Service'' in title IV of division D of Public Law 111–8, $700,000 are rescinded: Provided, That section 3002 shall not apply to the amounts under this heading.

INDEPENDENT AGENCY

FINANCIAL CRISIS INQUIRY COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111–21), $1,800,000, to remain available until February 15, 2011: Provided, That section 3002 shall not apply to the amount under this heading.

CHAPTER 6

DEPARTMENT OF HOMELAND SECURITY

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'' for necessary expenses and other disaster-response activities related to Haiti following the earthquake of January 12, 2010, $50,000,000, to remain available until September 30, 2012.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'', $15,500,000, to remain available until September 30, 2014, for aircraft replacement.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Disaster Relief'', $5,100,000,000, to remain available until expended, of which $5,000,000 shall be transferred to the Department of Homeland Security Office of the Inspector General for audits and investigations related to disasters.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for ''United States Citizenship and Immigration Services'' for necessary expenses and other disaster response activities related to Haiti following the earthquake of January 12, 2010, $10,600,000, to remain available until September 30, 2011.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. Notwithstanding the 10 percent limitation contained in section 503(c) of Public Law 111–83, for fiscal year 2010, the Secretary of Homeland Security may transfer to the fund established by 8 U.S.C. 1101 note, up to $20,000,000, from appropriations available to the Department of Homeland Security: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and House of Representatives 5 days in advance of such transfer.

(RESCISSIONS)

SEC. 602. (a) The following unobligated balances made available pursuant to section 505 of Public Law 110–329 are rescinded: $2,200,000 from Coast Guard ''Operating Expenses''; $1,800,000 from the ''Office of the Secretary and Executive Management''; and $489,152 from ''Analysis and Operations''.

(b) The third clause of the proviso directing the expenditure of funds under the heading ''Alteration of Bridges'' in the Department of Homeland Security Appropriations Act, 2009, is repealed, and from available balances made available for Coast Guard ''Alteration of Bridges'', $5,910,848 are rescinded: Provided, That funds rescinded pursuant to this subsection shall exclude balances made available in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5).

(c) From the unobligated balances of prior year appropriations made available to the ''Office of the Federal Coordinator for Gulf Coast Rebuilding'', $700,000 are rescinded.

(d) Section 3002 shall not apply to the amounts in this section.

SEC. 603. The Administrator of the Federal Emergency Management Agency shall consider satisfied for Hurricane Katrina the non-Federal match requirement for assistance provided by the Federal Emergency Management Agency pursuant to section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c(a).

SEC. 604. Funds appropriated in Public Law 111–83 under the heading National Protection and Programs Directorate ''Infrastructure Protection and Information Security'' shall be available for facility upgrades and related costs to establish a United States Computer Emergency Readiness Team Operations Support Center/Continuity of Operations capability.

SEC. 605. Two C–130J aircraft funded elsewhere in this Act shall be transferred to the Coast Guard.

SEC. 606. Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5140b, 5172, and 5173), for damages resulting from FEMA–3311–EM–RI, FEMA–1894–DR, FEMA–1906–DR, FEMA–1909–DR, and all other areas Presidentially declared a disaster, prior to or following enactment, and resulting from the May 1 and 2, 2010 weather events that elicited FEMA–1909–DR, shall not be less than 90 percent of the eligible costs under such sections.

SEC. 607. (a) Not later than 30 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall issue a security directive that requires a commercial foreign air carrier who operates flights in and out of the United States to check the list of individuals that the Transportation Security Administration has prohibited from flying not later than 30 minutes after such list is modified and provided to such air carrier.

(b) The requirements of subsection (a) shall not apply to commercial foreign air carriers that operate flights in and out of the United States and that are enrolled in the Secure Flight program or that are Advance Passenger Information System Quick Query (AQQ) compliant.

CHAPTER 7

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Departmental Management'' for mine safety activities and legal services related to the Department of Labor's caseload before the Federal Mine Safety and Health Review Commission (''FMSHRC''), $18,200,000, which shall remain available for obligation through the date that is 12 months after the date of enactment of this Act: Provided, That the Secretary of Labor may transfer such sums as necessary to the ''Mine Safety and Health Administration'' for enforcement and mine safety activities, which may include conference litigation functions related to the FMSHRC caseload, investigation of the Upper Big Branch Mine disaster, standards and rulemaking activities, emergency response equipment purchases and upgrades, and organizational improvements: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives are notified at least 15 days in advance of any transfer.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Health and Social Services Emergency Fund'' for necessary expenses for emergency relief and reconstruction aid, and other expenses related to

Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $220,000,000, to remain available until expended: Provided, That these funds may be transferred by the Secretary to accounts within the Department of Health and Human Services, shall be merged with the appropriation to which transferred, and shall be available only for the purposes provided herein: Provided further, That none of the funds provided in this paragraph may be transferred prior to notification of the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available in this or any other Act: Provided further, That funds appropriated in this paragraph may be used to reimburse agencies for obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That funds may be used for the non-Federal share of expenditures for medical assistance furnished under title XIX of the Social Security Act, and for child health assistance furnished under title XXI of such Act, that are related to earthquake response activities: Provided further, That funds may be used for services performed by the National Disaster Medical System in connection with such earthquake, for the return of evacuated Haitian citizens to Haiti, and for grants to States and other entities to reimburse payments made for otherwise uncompensated health and human services furnished in connection with individuals given permission by the United States Government to come from Haiti to the United States after such earthquake, and not eligible for assistance under such titles: Provided further, That the limitation in subsection (d) of section 1113 of the Social Security Act shall not apply with respect to any repatriation assistance provided in response to the Haiti earthquake of January 12, 2010: Provided further, That with respect to the previous proviso, such additional repatriation assistance shall only be available from the funds appropriated herein.

RELATED AGENCY

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For an additional amount for ''Federal Mine Safety and Health Review Commission, Salaries and Expenses''$3,800,000, to remain available for obligation for 12 months after enactment of this Act.

CHAPTER 8

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Joyce Murtha, widow of John P. Murtha, late a Representative from Pennsylvania, $174,000: Provided, That section 3002 shall not apply to this appropriation.

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'' to purchase and install the indoor coverage portion of the new radio system for the Capitol Police, $12,956,000, to remain available until September 30, 2012: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $242,296,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $406,590,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Family Housing Operation and Maintenance, Air Force'', $7,953,000.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for ''Compensation and Pensions'', $13,377,189,000, to remain available until expended: Provided, That section 3002 shall not apply to the amount under this heading.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 901. (a) Of the amounts made available to the Department of Veterans Affairs under the ''Construction, Major Projects'' account, in fiscal year 2010 or previous fiscal years, up to $67,000,000 may be transferred to the ''Filipino Veterans Equity Compensation Fund'' account: Provided, That any amount transferred from ''Construction, Major Projects'' shall be derived from unobligated balances that are a direct result of bid savings: Provided further, That no amounts may be transferred from amounts that were designated by Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) Section 3002 shall not apply to the amount in this section.

CHAPTER 10

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $1,261,000,000, to remain available until September 30, 2011: Provided, That the Secretary of State may transfer up to $149,500,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon concurrence of the head of such department or agency and after consultation with the Committees on Appropriations, to support operations in and assistance for Afghanistan and Pakistan and to carry out the provisions of the Foreign Assistance Act of 1961.

For an additional amount for ''Diplomatic and Consular Programs'' for necessary expenses for emergency relief, rehabilitation, and reconstruction support, and other expenses related to Haiti following the earthquake of January 12, 2010, $65,000,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That up to $3,700,000 of the funds made available in this paragraph may be transferred to, and merged with, funds made available under the heading ''Emergencies in the Diplomatic and Consular Service'': Provided further, That up to $290,000 of the funds made available in this paragraph may be transferred to, and merged with, funds made available under the heading ''Repatriation Loans Program Account''.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of operations and programs in Afghanistan, Pakistan, and Iraq, $3,600,000, to remain available until September 30, 2013.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'' for necessary expenses for emergency needs in Haiti following the earthquake of January 12, 2010, $79,000,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'' for necessary expenses for emergency security related to Haiti following the earthquake of January 12, 2010, $96,500,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'' for necessary expenses for emergency broadcasting support and other expenses related to Haiti following the earthquake of January 12, 2010, $3,000,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of operations and programs in Afghanistan and Pakistan, $3,400,000, to remain available until September 30, 2013.

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $4,500,000, to remain available until September 30, 2012: Provided, That up to $1,500,000 of the funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'' for necessary expenses for pandemic preparedness and response, $45,000,000, to remain available until September 30, 2011.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'' for necessary expenses for emergency relief and rehabilitation, and other expenses related to Haiti following the earthquake of January 12, 2010, $460,000,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $1,620,000,000, to remain available

until September 30, 2012, of which not less than $1,309,000,000 shall be made available for assistance for Afghanistan and not less than $259,000,000 shall be made available for assistance for Pakistan: Provided, That funds appropriated under this heading in this Act and in prior Acts making appropriations for the Department of State, foreign operations, and related programs that are made available for assistance for Afghanistan may be made available, after consultation with the Committees on Appropriations, for disarmament, demobilization and reintegration activities, subject to the requirements of section 904(e) in this chapter, and for a United States contribution to an internationally managed fund to support the reintegration into Afghan society of individuals who have renounced violence against the Government of Afghanistan.

For an additional amount for ''Economic Support Fund'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $770,000,000, to remain available until September 30, 2012: Provided, That of the funds appropriated in this paragraph, up to $120,000,000 may be transferred to the Department of the Treasury for United States contributions to a multi-donor trust fund for reconstruction and recovery efforts in Haiti: Provided further, That of the funds appropriated in this paragraph, up to $10,000,000 may be transferred to, and merged with, funds made available under the heading ''United States Agency for International Development, Funds Appropriated to the President, Operating Expenses'' for administrative costs relating to the purposes provided herein and to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That funds appropriated in this paragraph may be transferred to, and merged with, funds available under the heading ''Development Credit Authority'' for the purposes provided herein: Provided further, That such transfer authority is in addition to any other transfer authority provided by this or any other Act: Provided further, That funds made available to the Comptroller General pursuant to title I, chapter 4 of Public Law 106–31, to monitor the provision of assistance to address the effects of hurricanes in Central America and the Caribbean, shall also be available to the Comptroller General to monitor relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, and shall remain available until expended: Provided further, That funds appropriated in this paragraph may be made available to the United States Agency for International Development and the Department of State to reimburse any accounts for obligations incurred for the purpose provided herein prior to enactment of this Act.

For an additional amount for ''Economic Support Fund'' for necessary expenses for assistance for Jordan, $100,000,000, to remain available until September 30, 2012.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'' for necessary expenses for assistance for refugees and internally displaced persons, $165,000,000, to remain available until expended.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For an additional amount for ''International Affairs Technical Assistance'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $7,100,000, to remain available until September 30, 2012: Provided, That of the funds appropriated in this paragraph, up to $60,000 may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

INTERNATIONAL SECURITY ASSISTANCE

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $1,034,000,000, to remain available until September 30, 2012: Provided, That of the funds appropriated under this heading, not less than $650,000,000 shall be made available for assistance for Iraq of which $450,000,000 is for one-time start up costs and limited operational costs of the Iraqi police program, and $200,000,000 is for implementation, management, security, communications, and other expenses related to such program and may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the Government of Iraq supports and is cooperating with such program: Provided further, That funds appropriated in this chapter for assistance for Iraq shall not be subject to the limitation on assistance in section 7042(b)(1) of division F of Public Law 111–117: Provided further, That of the funds appropriated in this paragraph, not less than $169,000,000 shall be made available for assistance for Afghanistan and not less than $40,000,000 shall be made available for assistance for Pakistan: Provided further, That of the funds appropriated under this heading, $175,000,000 shall be made available for assistance for Mexico for judicial reform, institution building, anti-corruption, and rule of law activities, and shall be available subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

For an additional amount for ''International Narcotics Control and Law Enforcement'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $147,660,000, to remain available until September 30, 2012: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $100,000,000, to remain available until September 30, 2012, of which not less than $50,000,000 shall be made available for assistance for Pakistan and not less than $50,000,000 shall be made available for assistance for Jordan.

GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1001. Funds appropriated in this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

ALLOCATIONS

SEC. 1002. (a) Funds appropriated in this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

(1) ''Diplomatic and Consular Programs''.

(2) ''Economic Support Fund''.

(3) ''International Narcotics Control and Law Enforcement''.

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referred in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1003. (a) SPENDING PLANS.—Not later than 45 days after enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, and the Broadcasting Board of Governors, shall submit reports to the Committees on Appropriations detailing planned uses of funds appropriated in this chapter, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

(b) OBLIGATION REPORTS.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, and the Broadcasting Board of Governors, shall submit reports to the Committees on Appropriations not later than 90 days after enactment of this Act, and every 180 days thereafter until September 30, 2012, on obligations, expenditures, and program outputs and outcomes.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

AFGHANISTAN

SEC. 1004. (a) The terms and conditions of sections 1102(a), (b)(1), (c), and (d) of Public Law 111–32 shall apply to funds appropriated in this chapter that are available for assistance for Afghanistan.

(b) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Afghanistan may be obligated only if the Secretary of State reports to the Committees on Appropriations that prior to the disbursement of funds, representatives of the Afghan national, provincial or local government, local communities and civil society organizations, as appropriate, will be consulted and participate in the design of programs, projects, and activities, and following such disbursement will participate in implementation and oversight, and progress will be measured against specific benchmarks.

(c)(1) Funds appropriated in this chapter may be made available for assistance for the Government of Afghanistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Afghanistan is—

(A) cooperating with United States reconstruction and reform efforts;

(B) demonstrating a commitment to accountability by removing corrupt officials, implementing fiscal transparency and other necessary reforms of government institutions, and facilitating active public engagement in governance and oversight of public resources; and

(C) respecting the internationally recognized human rights of Afghan women.

(2) If at any time after making the determination required in paragraph (1) the Secretary receives credible information that the factual basis for such determination no longer exists, the Secretary should suspend assistance and promptly inform the relevant Afghan authorities that such assistance is suspended until sufficient factual basis exists to support the determination.

(d) Funds appropriated in this chapter and in prior Acts that are available for assistance for Afghanistan may be made available to support reconciliation with, or reintegration of, former

combatants only if the Secretary of State determines and reports to the Committees on Appropriations that—

(1) Afghan women are participating at national, provincial and local levels of government in the design, policy formulation and implementation of the reconciliation or reintegration process, and women's internationally recognized human rights are protected in such process; and

(2) such funds will not be used to support any pardon, immunity from prosecution or amnesty, or any position in the Government of Afghanistan or security forces, for any leader of an armed group responsible for crimes against humanity, war crimes, or other violations of internationally recognized human rights.

(e) Funds appropriated in this chapter that are available for assistance for Afghanistan may be made available to support the work of the Independent Electoral Commission and the Electoral Complaints Commission in Afghanistan only if the Secretary of State determines and reports to the Committees on Appropriations that—

(1) the Independent Electoral Commission and Electoral Complaints Commission have independence from the executive branch and there are adequate checks and balances on Presidential appointments to such commissions; and

(2) the central Government of Afghanistan has taken steps to ensure that women are able to exercise their rights to political participation, whether as candidates or voters.

(f)(1) Not more than 45 days after enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a strategy to address the needs and protect the rights of Afghan women and girls, including planned expenditures of funds appropriated in this chapter, and detailed plans for implementing and monitoring such strategy.

(2) Such strategy shall be coordinated with and support the goals and objectives of the National Action Plan for Women of Afghanistan and the Afghan National Development Strategy and shall include a defined scope and methodology to measure the impact of such assistance.

PAKISTAN

SEC. 1005. (a) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Foreign Military Financing Program'' and ''Pakistan Counterinsurgency Capability Fund'' shall be made available—

(1) in a manner that promotes unimpeded access by humanitarian organizations to detainees, internally displaced persons, and other Pakistani civilians adversely affected by the conflict; and

(2) in accordance with section 620J of the Foreign Assistance Act of 1961, and the Secretary of State shall inform relevant Pakistani authorities of the requirements of section 620J and of its application, and regularly monitor units of Pakistani security forces that receive United States assistance and the performance of such units.

(b)(1) Of the funds appropriated in this chapter under the heading ''Economic Support Fund'' for assistance for Pakistan, $5,000,000 shall be made available through the Bureau of Democracy, Human Rights and Labor, Department of State, for human rights programs in Pakistan, including training of government officials and security forces, and assistance for human rights organizations.

(2) Not later than 90 days after enactment of this Act and prior to the obligation of funds under this subsection, the Secretary of State shall submit to the Committees on Appropriations a human rights strategy in Pakistan including the proposed uses of funds.

(c) Of the funds appropriated in this chapter under the heading ''Economic Support Fund'' for assistance for Pakistan, up to $1,500,000 should be made available to the Department of State and the United States Agency for International Development for the lease of aircraft to implement programs and conduct oversight in northwestern Pakistan, which shall be coordinated under the authority of the United States Chief of Mission in Pakistan.

IRAQ

SEC. 1006. (a) The uses of aircraft in Iraq purchased or leased with funds made available under the headings ''International Narcotics Control and Law Enforcement'' and ''Diplomatic and Consular Affairs'' in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs shall be coordinated under the authority of the United States Chief of Mission in Iraq.

(b) The terms and conditions of section 1106(b) of Public Law 111–32 shall apply to funds made available in this chapter for assistance for Iraq under the heading ''International Narcotics Control and Law Enforcement''.

HAITI

SEC. 1007. (a) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Haiti may be obligated only if the Secretary of State reports to the Committees on Appropriations that prior to the disbursement of funds, representatives of the Haitian national, provincial or local government, local communities and civil society organizations, as appropriate, will be consulted and participate in the design of programs, projects, and activities, and following such disbursement will participate in implementation and oversight, and progress will be measured against specific benchmarks.

(b)(1) Funds appropriated in this chapter under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' may be made available for assistance for the Government of Haiti only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Haiti is—

(A) cooperating with United States reconstruction and reform efforts; and

(B) demonstrating a commitment to accountability by removing corrupt officials, implementing fiscal transparency and other necessary reforms of government institutions, and facilitating active public engagement in governance and oversight of public resources.

(2) If at any time after making the determination required in paragraph (1) the Secretary receives credible information that the factual basis for making such determination no longer exists, the Secretary should suspend assistance and promptly inform the relevant Haitian authorities that such assistance is suspended until sufficient factual basis exists to support the determination.

(c)(1) Funds appropriated in this chapter for bilateral assistance for Haiti may be provided as direct budget support to the central Government of Haiti only if the Secretary of State reports to the Committees on Appropriations that the Government of the United States and the Government of Haiti have agreed, in writing, to clear and achievable goals and objectives for the use of such funds, and have established mechanisms within each implementing agency to ensure that such funds are used for the purposes for which they were intended.

(2) The Secretary should suspend any such direct budget support to an implementing agency if the Secretary has credible evidence of misuse of such funds by any such agency.

(3) Any such direct budget support shall be subject to prior consultation with the Committees on Appropriations.

(d) Funds appropriated in this chapter that are made available for assistance for Haiti shall be made available, to the maximum extent practicable, in a manner that emphasizes the participation and leadership of Haitian women and directly improves the security, economic and social well-being, and political status of Haitian women and girls.

(e) Funds appropriated in this chapter may be made available for assistance for Haiti notwithstanding any other provision of law, except for section 620J of the Foreign Assistance Act of 1961 and provisions of this chapter.

HAITI DEBT RELIEF

SEC. 1008. (a) For an additional amount for ''Contribution to the Inter-American Development Bank'', ''Contribution to the International Development Association'', and ''Contribution to the International Fund for Agricultural Development'', to cancel Haiti's existing debts and repayments on disbursements from loans committed prior to January 12, 2010, and for the United States share of an increase in the resources of the Fund for Special Operations of the Inter-American Development Bank, to the extent separately authorized in this chapter, in furtherance of providing debt relief for Haiti in view of the Cancun Declaration of March 21, 2010, a total of $212,000,000, to remain available until September 30, 2012.

(b) Up to $40,000,000 of the amounts appropriated under the heading ''Department of the Treasury, Debt Restructuring'' in prior Acts making appropriations for the Department of State, foreign operations, and related programs may be used to cancel Haiti's existing debts and repayments on disbursements from loans committed prior to January 12, 2010, to the Inter-American Development Bank, the International Development Association, and the International Fund for Agricultural Development, and for the United States share of an increase in the resources of the Fund for Special Operations of the Inter-American Development Bank in furtherance of providing debt relief to Haiti in view of the Cancun Declaration of March 21, 2010.

HAITI DEBT RELIEF AUTHORITY

SEC. 1009. The Inter-American Development Bank Act, Public Law 86–147, as amended (22 U.S.C. 283 et seq.), is further amended by adding at the end thereof the following new section:

''SEC. 40. AUTHORITY TO VOTE FOR AND CONTRIBUTE TO AN INCREASE IN RESOURCES OF THE FUND FOR SPECIAL OPERATIONS; PROVIDING DEBT RELIEF TO HAITI.

''(a) VOTE AUTHORIZED.—In accordance with section 5 of this Act, the United States Governor of the Bank is authorized to vote in favor of a resolution to increase the resources of the Fund for Special Operations up to $479,000,000, in furtherance of providing debt relief for Haiti in view of the Cancun Declaration of March 21, 2010, which provides that:

''(1) Haiti's debts to the Fund for Special Operations are to be cancelled;

''(2) Haiti's remaining local currency conversion obligations to the Fund for Special Operations are to be cancelled;

''(3) undisbursed balances of existing loans of the Fund for Special Operations to Haiti are to be converted to grants; and

''(4) the Fund for Special Operations is to make available significant and immediate grant financing to Haiti as well as appropriate resources to other countries remaining as borrowers within the Fund for Special Operations, consistent with paragraph 6 of the Cancun Declaration of March 21, 2010.

''(b) CONTRIBUTION AUTHORITY.—To the extent and in the amount provided in advance in appropriations Acts the United States Governor of the Bank may, on behalf of the United States and in accordance with section 5 of this Act, contribute up to $252,000,000 to the Fund for Special Operations, which will provide for debt relief of:

''(1) up to $240,000,000 to the Fund for Special Operations;

''(2) up to $8,000,000 to the International Fund For Agricultural Development (IFAD); and

''(3) up to $4,000,000 for the International Development Association (IDA).

''(c) AUTHORIZATION OF APPROPRIATIONS.—To pay for the contribution authorized under subsection (b), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury $212,000,000, for the United States contribution to the Fund for Special Operations.''.

MEXICO

SEC. 1010. (a) For purposes of funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the heading ''International Narcotics Control and Law Enforcement'' that are made available for assistance for Mexico, the provisions of paragraphs (1) through (3) of section 7045(e) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8) shall apply and the report required in paragraph (1) shall be based on a determination by the Secretary of State of compliance with each of the requirements in paragraph (1)(A) through (D).

(b) Funds appropriated in this chapter under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for Mexico may be made available only after the Secretary of State submits a report to the Committees on Appropriations detailing a coordinated, multi-year, interagency strategy to address the causes of drug-related violence and other organized criminal activity in Central and South America, Mexico, and the Caribbean, which shall describe—

(1) the United States multi-year strategy for the region, including a description of key challenges in the source, transit, and demand zones; the key objectives of the strategy; and a detailed description of outcome indicators for measuring progress toward such objectives;

(2) the integration of diplomatic, administration of justice, law enforcement, civil society, economic development, demand reduction, and other assistance to achieve such objectives;

(3) progress in phasing out law enforcement activities of the militaries of each recipient country, as applicable; and

(4) governmental efforts to investigate and prosecute violations of internationally recognized human rights.

(c) Of the funds appropriated in this chapter under the heading ''Diplomatic and Consular Programs'', up to $5,000,000 may be made available for armored vehicles and other emergency diplomatic security support for United States Government personnel in Mexico.

EL SALVADOR

SEC. 1011. Of the funds appropriated in this chapter under the heading ''Economic Support Fund'', $25,000,000 shall be made available for necessary expenses for emergency relief and reconstruction assistance for El Salvador related to Hurricane/Tropical Storm Ida.

DEMOCRATIC REPUBLIC OF THE CONGO

SEC. 1012. Of the funds appropriated in this chapter under the heading ''Economic Support Fund'', $15,000,000 shall be made available for necessary expenses for emergency security and humanitarian assistance for civilians, particularly women and girls, in the eastern region of the Democratic Republic of the Congo.

INTERNATIONAL SCIENTIFIC COOPERATION

SEC. 1013. Funds appropriated in prior Acts making appropriations for the Department of State, foreign operations, and related programs that are made available for science and technology centers in the former Soviet Union may be used to support productive, non-military activities that engage scientists and engineers who have no weapons background, but whose competence could otherwise be applied to weapons development, notwithstanding sections 503 and 504 of the FREEDOM Support Act (Public Law 102–511), and following consultation with the Committees on Appropriations, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

INTERNATIONAL RENEWABLE ENERGY AGENCY

SEC. 1014. For fiscal year 2011 and thereafter, the President is authorized to accept the statute of, and to maintain membership of the United States in, the International Renewable Energy Agency, and the United States' assessed contributions to maintain such membership may be paid from funds appropriated for ''Contributions to International Organizations''.

OFFICE OF INSPECTOR GENERAL PERSONNEL

SEC. 1015. (a) Funds appropriated in this chapter for the United States Agency for International Development Office of Inspector General (OIG) may be made available to contract with United States citizens for personal services when the Inspector General determines that the personnel resources of the OIG are otherwise insufficient.

(1) Not more than 5 percent of the OIG personnel (determined on a full-time equivalent basis), as of any given date, are serving under personal services contracts.

(2) Contracts under this paragraph shall not exceed a term of 2 years unless the Inspector General determines that exceptional circumstances justify an extension of up to 1 additional year, and contractors under this paragraph shall not be considered employees of the Federal Government for purposes of title 5, United States Code, or members of the Foreign Service for purposes of title 22, United States Code.

(b)(1) The Inspector General may waive subsections (a) through (d) of section 8344, and subsections (a) through (e) of section 8468 of title 5, United States Code, and subsections (a) through (d) of section 4064 of title 22, United States Code, on behalf of any re-employed annuitant serving in a position within the OIG to facilitate the assignment of persons to positions in Iraq, Pakistan, Afghanistan, and Haiti or to positions vacated by members of the Foreign Service assigned to those countries.

(2) The authority provided in paragraph (1) shall be exercised on a case-by-case basis for positions for which there is difficulty recruiting or retaining a qualified employee or to address a temporary emergency hiring need, individuals employed by the OIG under this paragraph shall not be considered employees for purposes of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title, and the authorities of the Inspector General under this paragraph shall terminate on October 1, 2012.

TECHNICAL CLARIFICATION

SEC. 1016. The second proviso of section 7081(d) of division F, Public Law 111–117, shall be amended before ''this Act'' by inserting ''title III of'', and by striking '', directly or indirectly,''.

AUTHORITY TO REPROGRAM FUNDS

SEC. 1017. Of the funds appropriated by this chapter for assistance for Afghanistan, Iraq and Pakistan, up to $100,000,000 may be made available pursuant to the authority of section 451 of the Foreign Assistance Act of 1961, as amended, for assistance in the Middle East and South Asia regions if the President finds, in addition to the requirements of section 451 and certifies and reports to the Committees on Appropriations, that exercising the authority of this section is necessary to protect the national security interests of the United States: Provided, That the Secretary of State shall consult with the Committees on Appropriations prior to the reprogramming of such funds, which shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That the funding limitation otherwise applicable to section 451 of the Foreign Assistance Act of 1961 shall not apply to this section: Provided further, That the authority of this section shall expire upon enactment of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2011.

SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

(INCLUDING RESCISSION)

SEC. 1018. (a) Of the funds appropriated under the heading ''Department of State, Administration of Foreign Affairs, Office of Inspector General'' and authorized to be transferred to the Special Inspector General for Afghanistan Reconstruction in title XI of Public Law 111–32, $7,200,000 are rescinded.

(b) For an additional amount for ''Department of State, Administration of Foreign Affairs, Office of Inspector General'' which shall be available for the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight in Afghanistan, $7,200,000, and shall remain available until September 30, 2011.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

Of the amounts provided for Safety Belt Performance Grants in Public Law 111–117, $15,000,000 shall be available to pay for expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under subtitle C of title X of Public Law 109–59 and chapter 301 and part C of subtitle VI of title 49, United States Code, and for the planning or execution of programs authorized under section 403 of title 23, United States Code: Provided, That such funds shall be available until September 30, 2011, and shall be in addition to the amount of any limitation imposed on obligations in fiscal year 2011.

Of the amounts made available for Safety Belt Performance Grants under section 406 of title 23, United States Code, $15,000,000 in unobligated balances are permanently rescinded: Provided, That section 3002 shall not apply to the amounts under this heading.

CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM

(RESCISSION)

Of the amounts made available for the Consumer Assistance to Recycle and Save Program, $44,000,000 in unobligated balances are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the ''Community Development Fund'', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by severe storms and flooding from March 2010 through May 2010 for which the President declared a major disaster covering an entire State or States with more than 20 counties declared major disasters under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $100,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): Provided, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: Provided further, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these

funds will address long-term recovery and restoration of infrastructure: Provided further, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: Provided further, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: Provided further, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: Provided further, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: Provided further, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: Provided further, That the Secretary shall obligate to a State or subdivision thereof not less than 50 percent of the funding provided under this heading within 90 days after the enactment of this Act.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Economic Development Assistance Programs'', to carry out planning, technical assistance and other assistance under section 209, and consistent with section 703(b), of the Public Works and Economic Development Act (42 U.S.C. 3149, 3233), in States affected by the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $5,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', $13,000,000, to remain available until expended, for responding to economic impacts on fishermen and fishery-dependent businesses: Provided, That the amounts appropriated herein are not available unless the Secretary of Commerce determines that resources provided under other authorities and appropriations including by the responsible parties under the Oil Pollution Act, 33 U.S.C. 2701, et seq., are not sufficient to respond to economic impacts on fishermen and fishery-dependent business following an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', for activities undertaken including scientific investigations and sampling as a result of the incidents related to the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $7,000,000, to remain available until expended. These activities may be funded through the provision of grants to universities, colleges and other research partners through extramural research funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', Food and Drug Administration, Department of Health and Human Services, for food safety monitoring and response activities in connection with the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $2,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Office of the Secretary, Salaries and Expenses'' for increased inspections, enforcement, investigations, environmental and engineering studies, and other activities related to emergency offshore oil spill incidents in the Gulf of Mexico, $29,000,000, to remain available until expended: Provided, That such funds may be transferred by the Secretary to any other account in the Department of the Interior to carry out the purposes provided herein.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $10,000,000, to remain available until expended, for litigation expenses resulting from incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'' for a study on the potential human and environmental risks and impacts of the release of crude oil and the application of dispersants, surface washing agents, bioremediation agents, and other mitigation measures listed in the National Contingency Plan Product List (40 C.F.R. Part 300 Subpart J), as appropriate, $2,000,000, to remain available until expended: Provided, That the study shall be performed at the direction of the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Commerce and the Secretary of the Interior: Provided further, That the study may be funded through the provision of grants to universities and colleges through extramural research funding.

GENERAL PROVISION—THIS TITLE

DEEPWATER HORIZON

SEC. 2001. Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence:

(1) by inserting '': (1)'' before ''may obtain an advance'' and after ''the Coast Guard'';

(2) by striking ''advance. Amounts'' and inserting the following: ''advance; (2) in the case of discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain one or more advances from the Oil Spill Liability Trust Fund as needed, up to a maximum of $100,000,000 for each advance, the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9509(c)(2)), and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance; and (3) amounts''.

TITLE III

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 3001 No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 3002. Unless otherwise specified, each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 3003. (a) Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. §§1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

(b) Section 3002 shall not apply to this section.

SEC. 3004. (a) Public Law 111–88, the Interior, Environment, and Related Agencies Appropriations Act, 2010, is amended under the heading ''Office of the Special Trustee for American Indians'' by—

(1) striking ''$185,984,000'' and inserting ''$176,984,000''; and

(2) striking ''$56,536,000'' and inserting ''$47,536,000''.

(b) Section 3002 shall not apply to the amounts in this section.

SEC. 3005. Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking ''2008'' and inserting ''2011''.

SEC. 3006. For fiscal years 2010 and 2011—

(1) the National Park Service Recreation Fee Program account may be available for the cost of adjustments and changes within the original scope of contracts for National Park Service projects funded by Public Law 111–5 and for associated administrative costs when no funds are otherwise available for such purposes;

(2) notwithstanding section 430 of division E of Public Law 111–8 and section 444 of Public Law 111–88, the Secretary of the Interior may utilize unobligated balances for adjustments and changes within the original scope of projects funded through division A, title VII, of Public Law 111–5 and for associated administrative costs when no funds are otherwise available;

(3) the Secretary of the Interior shall ensure that any unobligated balances utilized pursuant to paragraph (2) shall be derived from the bureau and account for which the project was funded in Public Law 111–5; and

(4) the Secretary of the Interior shall consult with the Committees on Appropriations prior to making any charges authorized by this section.

SEC. 3007. (a) Section 205(d) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2304(d)) is amended by striking ''10 years'' and inserting ''11 years''.

(b) Section 3002 shall not apply to this section.

This Act may be cited as the ''Supplemental Appropriations Act, 2010''.

Amend the title so as to read: ''Making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes''.

AMENDMENT NO. 4174

(Purpose: To provide collective bargaining rights for public safety officers employed by States or their political subdivisions.)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4174.

Mr. REID. Mr President, I ask unanimous consent that 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.'')

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

Mr. INOUYE. Mr. President, today the Senate will begin consideration of H.R. 4899, the FEMA supplemental as passed by the House on March 24 and marked up by the Senate Appropriations Committee on Thursday, May 13. As my colleagues may be aware, several attempts were made to proceed to the House-passed bill, but there were objections to proceeding.

Because of the delay in acting upon the House bill, the vice chairman and I agreed that we should consider all of the supplemental provisions in the jurisdiction of the Appropriations Committee that are pending before the Congress instead of just the FEMA portion as proposed by the House. The committee concurred in this recommendation and forwarded the bill to the full Senate by a unanimous vote of 30 to 0.

This bill contains $45.4 billion in discretionary spending and $13.4 billion in spending on mandatory programs. This amount is the same as the amount requested by the President. I want to point out to all of my colleagues that the bill does not include funding for the settlements between the Federal Government and African American-farmers and Native Americans.

While I am strongly in favor of funding these settlements, these items are, in fact not in the jurisdiction of the Appropriations Committee. We have been informed by the leadership that these matters will be addressed elsewhere. I understand and expect that funding for these two settlements will be approved by the Congress and forwarded to the White House before the Memorial Day recess.

The recommendations that Vice Chairman COCHRAN and I are presenting to you on behalf of the appropriations Committee reflect the collective efforts of each of our subcommittees. The main parts of the bill include $33.5 billion in Department of Defense funding to cover the cost of the wars in Afghanistan and Iraq, combat terrorism, and respond to the earthquake in Haiti. An additional $6.5 billion is provided for the State Department and other agencies in support of these and related efforts.

The bill also includes $68 million in the first payment to cover Federal responsibilities resulting from the oilspill in the gulf. We recognize that additional funding and new legislative authorities are likely to be required in response to the oilspill. The amount we recommend results from our review of the budget amendment which was only submitted to the Administration the day before the committee markup. We are confident that the sums recommended are necessary but recognize more action will be needed in the coming months.

As requested, the committee is also recommending $5.1 billion for FEMA'S disaster relief efforts. Everyone should be aware that the Federal Emergency Management Agency is out of funding for disaster relief. Even this sum is below what we anticipate will be required before the end of this year. However, the recommended sum is the amount sought by the Administration. The committee was unable to identify additional offsets to increase the total funding for FEMA.

In addition to these, the committee has identified rescissions and other savings within the Administration's request to address many natural disasters for which the Administration did not request assistance.

Two weeks ago, more than 40 counties in Tennessee were underwater. Rhode Island suffered through a once in a 500-year storm in March. A disaster was declared by the President in January for fisheries in Alaska. Tornadoes have tormented the Midwest and South. We have dams in need of emergency repair in the Northwest and an urgent requirement to address mine safety, but no funds have been requested to address these needs. Nothing has been offered to offset the enormous cost of clean-up and reconstruction for the States and communities which have suffered.

In total, the committee has provided more than $425 million to address the disaster related shortfalls that were not requested by the Administration. This is a mere pittance when compared to the $1 or $2 billion that is needed now to meet these needs, but it was that we could identify so late in the fiscal year to help meet these legitimate emergency costs.

Some will say, ''Well, surely there are other offsets.'' I do not deny there are unobligated funds, but unobligated does not mean unneeded. For example, last week we identified a program with $8.3 billion unobligated, the Joint Strike Fighter. The contract award for the F–35 Joint Strike Fighter has been delayed by months. Accordingly, the funding remains unobligated. Surely those that want to cut unobligated balances to offset the cost of this bill do not want us to rescind funds for this new fighter.

We are told that some of our colleagues would like to send members of the National Guard to the border using unobligated balances to pay that cost.

Well, I would point out that we have more than $2.6 billion in unobligated balances in funding that the Congress has appropriated over the past 3 years to purchase additional equipment for our National Guard and Reserve Forces. I suppose we could reallocate funds from that account to cover the cost of stationing additional National Guard troops on the border, But I doubt the proponents of such an amendment would support that. Moreover, like funding for the Joint Strike Fighter, the amount provided for National Guard equipment is needed even if it has not yet been spent.

In recent months the rhetoric on Federal spending has focused solely on how much money has been spent rather than on what was necessary and what is still required. Many Senators question why we bailed out Wall Street. Others ask why we used Federal funds to ''prime the pump'' of our economy through the Recovery Act. I, for one, believe both were necessary to forestall an economic depression. Over the past few months as the stock market has rebounded and we have seen the beginnings of job creation, I am more confident than ever that the Congress acted wisely.

But I want to inform all my colleagues that this bill is neither a bailout nor a stimulus. Instead, it is the minimum necessary to support our troops in harm's way and to meet emergency domestic and international requirements. The vice chairman and I agreed that the bill recommended by the committee would stay within the amounts requested by the Administration, even though we know more could be justified for these purposes.

I recognize that many Senators on both sides of the aisle believe we simply should not spend more, but I say to you the Nation still has legitimate needs and a responsibility to act. We cannot stop investing in our Nation simply because of high deficits. This is a time for fiscal austerity but not for cutting legitimate spending needs. I can assure my colleagues this bill is both austere and responsible.

The items in this bill are all either fully offset or bona fide emergencies. Many items are both emergency and offset to stay within the budget request. As chairman of this committee, I believe there are many more items which could be justified; but, to maintain necessary support for this bill, Vice Chairman COCHRAN and I committed to holding the line on spending. The committee met that objective.

I want to thank Vice Chairman COCHRAN and his staff for their dedication and cooperation. This bill has been written in a completely bipartisan fashion, with input from all the chairmen and ranking members of our 12 subcommittees. I thank all members of the committee for their enormous contributions to this bill.

Let me be clear. FEMA is out of money. More than 40 States have been told that they must wait for funds to cover disaster bills. Communities throughout the Northeast and Southeast are waiting for funds in this bill to begin rebuilding after devastating floods. We have an urgent requirement to respond rapidly to the devastating effects of the oilspill in the gulf. Funding for all of these cannot wait while

some might seek to delay action on this bill.

But most importantly, next week, the Nation will honor those who sacrificed their lives in defense of our country. As I have said on many occasions, my colleagues should be mindful that less than 1 percent of our population has volunteered to wear our country's uniform, to serve the rest of us. They defend our freedom, our way of life. They are called upon ever more frequently to leave their families behind and report to dangerous and inhospitable locations. Willingly, they do so.

The Senate owes them a debt of gratitude for their patriotism and sacrifice. I can think of no better way to honor those who serve today and those who have gone before than by passing this bill expeditiously so that it can be forwarded to the House for action.

I urge all Members to work with Vice Chairman COCHRAN and me to support this bill and secure its quick passage.

I yield the floor.

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

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from Hawaii, chairman of the Appropriations Committee, in presenting this supplemental appropriations bill to the Senate. The central purposes of the bill are to fund the military and diplomatic surge in Afghanistan, to respond to natural disasters in this country and in Haiti, and to address the immediate challenges we face from the oilspill in the Gulf of Mexico.

It has been 5 months since the President announced his strategy to achieve stability in Afghanistan. Central to that strategy is the addition of some 30,000 troops into the theater, together with a significant increase in aid and diplomatic resources to the region. Congress has the responsibility and the duty to carefully review and consider the President's request for these supplemental appropriations and approve the expenditure of the funds that are necessary for a successful outcome, one that serves the interests of the United States.

We must be mindful, however, that more than half of the additional troops called for in the President's plan have already arrived in Afghanistan. Spring and summer offenses are being mounted now and in the coming months will become critical to our chances for success. It is also important that we act on the President's request in a timely manner. We should not procrastinate or drag our feet. We should not force the Pentagon to juggle accounts, delay procurements, and otherwise take actions that will detract from our efforts in the field.

The committee has spent several months, as the distinguished chairman pointed out, carefully examining the supplemental request made by the Department of Defense and the State Department. Secretary Gates and Secretary Clinton have testified before the committee in support of these requests. The committee members and staff have met with other government officials and outside groups to refine the committee's recommendations.

While this bill includes many of the supplemental requests made by the President, some of his proposals were deemed premature, unwarranted, or inappropriate for inclusion in an emergency supplemental appropriations bill. The committee also heard from both Democratic and Republican Senators about urgent needs not addressed in the President's supplemental request. The chairman and I, as well as the various subcommittee chairmen and ranking members, have worked to address those needs. We have limited the total cost of the bill to the amount requested by the President, and we have kept the bill focused on its central purposes.

In some parts of the country, recent natural disasters have left communities in desperate need of Federal assistance, but with flood waters still receding and damage assessments not yet complete, it has been difficult to respond to all of the requests we have received. The chairman and I will continue to work with Senators representing those communities to see that the Federal response is appropriate and addresses the most critical needs.

For those of us who represent the gulf coast region, our States are dealing with a different kind of disaster. While it is not a natural disaster, it is a very serious event that will have very serious consequences for the natural environment as well as for local economies throughout the region. We cannot predict now and we cannot now know what the long-term impacts of this spill will be. While the Federal Government is intimately involved in the response and cleanup efforts, clearly the parties responsible for the spill must bear the ultimate cost of cleanup and associated damages. The President submitted an oilspill supplemental proposal 1 day prior to the committee's consideration of this bill. The proposal contained funding requests prompted by the spill but not directly tied to the Deepwater Horizon event. It also included broader policy proposals that would restructure the oilspill liability regime currently in place. The committee has had very little time to review these proposals. We have decided to recommend funding only items that are within the committee's jurisdiction that will address urgent needs.

We do not suggest that the committee has arrived at the perfect solution. There may be other proposals that should be included in this legislation. There may be recommendations included by the committee that should be reconsidered based on additional analysis. I look forward to working with our colleagues from the gulf coast and all Senators to address this unfortunate event.

During consideration of this bill in committee, several members identified additional funding needs or policy matters they intend to raise during floor debate. Members not on the committee will surely have amendments as well, and we look forward to working with all Senators to improve this bill where we can. But it is clear that adding additional costs to this bill will exacerbate our Nation's fiscal imbalance and potentially jeopardize our ability to rapidly get needed resources to our men and women in harm's way in Afghanistan, Iraq, and in other parts of the world. This bill recommends $46 billion in discretionary appropriations and another $13 billion in mandatory funds. No matter how important the purposes, that is a significant amount of money. I expect amendments will be offered to offset some or all of these costs.

The disaster relief fund of the Federal Emergency Management Agency is currently allocating funds for immediate needs only. The fund owes more than $1.5 billion to States for projects already approved to assist communities recovering from disasters. Going into hurricane season, the fund has less than $900 million available to respond to disasters. One way or the other, we must take action to capitalize the fund.

We also must act with a sense of urgency to provide the resources needed to succeed in Afghanistan and Iraq. We should consider those requirements carefully. But I believe we will poorly serve our men and women in the field if we allow internal tactical battles to unduly delay delivery of a bill to the President, or if we burden this bill with other costs or legislative matters that are unrelated and controversial.

I thank the distinguished Senator from Hawaii and able members of his staff for their work on this bill and moving it to this point through the committee. I hope our colleagues who have amendments will contact us so we can help arrange for consideration of those in a timely manner.

I yield the floor.

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

AMENDMENT NO. 4173

(Purpose: To establish 3 year discretionary spending caps)

Mr. SESSIONS. Mr. President, I won't discuss any further the amendment I am going to call up. It was offered by Senator MCCASKILL and me 2 or 3 weeks ago. We reached as high as 59 votes for it, one short of passage. It is an amendment that would put a statutory limit on spending, making it more difficult to violate the limits we put by requiring a two-thirds vote to break that limit except in time of war and emergency.

I ask at this time to call up amendment No. 4173.

The ACTING PRESIDENT pro tempore. Does the Senator wish to set aside the pending amendment?

Mr. SESSIONS. I now ask unanimous consent to set aside the pending amendment.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. MCCASKILL, proposes an amendment numbered 4173.

Mr. SESSIONS. I ask unanimous consent that 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. SESSIONS. Mr. President, I thank the Acting President pro tempore and yield the floor.

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

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

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business but to extend the time to up to 45 minutes.

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

Mr. KYL. Thank you, Mr. President. I would say, since I do not see a Member of the majority on the floor, if there is a concern with that later, and somebody wishes to slip me a note, I would be happy to try to accommodate my schedule to the majority's schedule.

NEW START CONCERNS

Mr. President, what I wish to speak to today is the START treaty which has been submitted by the administration for consideration by the Senate.

The President signed the treaty on April 8 of this year, submitted it to the Senate for ratification on May 13, and 2 weeks ago the Foreign Relations Committee began hearings on the treaty.

In the consideration of past treaties, the Senate has taken great care to consider the entire record of relevant documents and to seek the views of a wide variety of experts, and I am sure that will be done in this case as well.

According to a report from Senator THUNE, who is the head of the Republican Policy Committee:

[On] the original START, almost 430 days passed between the time President George H.W. Bush signed it—

That was July 31, 1991—

and the U.S. Senate provided its consent to the treaty [on October 1, 1992]. As for the Treaty of Moscow, which is to terminate if New START is ratified, it was signed on May 24, 2002 and ratified by the Senate more than nine months later on March 6, 2003.

That treaty, by the way, is only three pages long. So it is not surprising that it takes some time. What is surprising to me is that some have seemed intent on rushing the treaty that has been sent to us. According to Congressional Quarterly:

A congressional aide who briefed reporters on the treaty said Thursday that Senate Foreign Relations [Committee] Chairman John Kerry [of Massachusetts] intended to complete hearings ''in time for the Senate to take up the treaty before the August recess, if it so chooses.''

I am not aware of any similar precedent for so rushing such a treaty of this complexity, and I am not sure why the rush would be necessary. I wish to remind my colleagues, the White House assured us there would be no problem when it permitted the treaty to expire by not seeking its extension. The reason is expressed in a Joint Statement, which said as follows:

Recognizing our mutual determination to support strategic stability between the United States of America and the Russian Federation, we express our commitment, as a matter of principle, to continue to work together in the spirit of the START Treaty following its expiration, as well as our firm intention to ensure that a new treaty on strategic arms enter into force at the earliest possible date.

So what did these 65 words mean? Well, Deputy Secretary of Defense Lynn told us they meant that:

In this interim period of START's expiration earlier in the month, our two countries have agreed to continue observing the spirit of the treaty's terms.

Spokesman Kelly said they mean that ''both sides pledged not to take any measures that would undermine the strategic stability that START has provided during this period between the expiration of the START treaty.''

So the idea that we are potentially disadvantaged every day the treaty goes unratified seems to me to be untrue, unless the Joint Statement does not mean what we were told it means. Certainly, there is no reason the Senate should not take the time it needs to perform its due diligence. The Constitution did not, after all, entrust to this body the requirement to perform the process of advise and consent on treaties, and did not set the extraordinarily high threshold of 67 votes to achieve ratification because it intended the Senate to merely rubberstamp a treaty.

I remind my colleagues of the recommendation of Dr. James Schlesinger, who the chairman of the Foreign Relations Committee said in a recent hearing has been called ''the former Secretary of Everything.'' Dr. Schlesinger said:

First, the Senate will wish to scrutinize the Treaty carefully, as it has previous arms control agreements. This reflects the many changes as compared to START I.

Of course, the treaty is more than just the treaty text, protocols, and annexes, which we have only recently received. There are other things we have not yet received. Again, quoting from Senator THUNE's report:

For example, the Secretary of State is required by statute to submit a verifiability assessment of the treaty, and past practice has been for the intelligence community to submit a National Intelligence Estimate concerning the verifiability of such matters. These two documents will be critical to Senate evaluation of the treaty.

Another set of documents that will be critical to the Senate's evaluation of New START, particularly the verification issue, is the annual report the President is to complete assessing other nations' compliance with their arms control, nonproliferation, and disarmament commitments. This annual report is due on April 15 of each year, with the last one submitted in August 2005—meaning the White House is now five reports behind.

So in this case, the verifiability assessment will be prepared by the Assistant Secretary for Verification, Rose Gottemoeller, who also happened to be our lead negotiator on the treaty. I am not certain if she will recuse herself from drafting the document, due to the obvious conflict of interest, but Senators must surely understand this.

On the matter of the NIE, Senators must carefully review the record of the proceedings of the Senate Select Committee on Intelligence, which will file a report or submit a letter on the treaty. The NIE is important. It is not simply a statement on the verifiability of the treaty or at least it should not be. To be useful, it will provide an analysis of how the treaty informs our understanding of Russia's nuclear forces. It will analyze cheating scenarios and the likelihood we will detect them. This is an important document and one that will take time to put together.

Another document promised, but not yet sent to the Senate, is the nuclear force posture. Senators will, of course, want to know how the triad will be composed during the 10 years of the treaty before we consider it. It is not sufficient to merely trust that the 700 deployed launchers called for in the treaty will be sufficient. We need to see the force posture and we need to see the analysis that supports it.

I joined with my colleagues on the Foreign Relations Committee who have requested access to the treaty negotiating record. I remind my colleagues that 22 U.S.C. section 2578 requires the Secretary of State to maintain a negotiating record of treaties to which the United States is a party. Obviously, Congress did not enact this requirement merely for the sake of doing it. Congress, obviously, intended to be able to have access to the record.

There is a long history on this subject involving great disputes between the Senate, its committees, and its National Security Working Group—or its predecessor, the Arms Control Observer Group—which, incidentally, I cochair along with Senator BYRD, and the Executive on the INF and the START I treaty. I remind my colleagues of a statement made by Sam Nunn, the

former chairman of the Senate Armed Services Committee, when he was serving in this body in 1986:

Mr. President, in my opinion, the administration's rejection of our request for Senate access threatens a basic institutional interest of the U.S. Senate—its constitutional role in the treaty process.

I agree with the former chairman of the Armed Services Committee that it is important for the Senate to have access to this negotiating record.

Finally, let me say, I come to this very serious process with an open mind. I supported the START II treaty and the Moscow Treaty. I opposed the Chemical Weapons Convention and the Comprehensive Test Ban Treaty. Not all arms control agreements are the same. And just because they were negotiated, it does not follow they are in our best interest. So we need to examine the record and this treaty carefully.

Today, I want to identify some areas of concern I believe Senators will want to focus on as they begin to consider the treaty. These are not objections. They are matters of concern we will want to investigate:

One, the required nuclear modernization plan; two, limits on U.S. nuclear force levels and force structure; three, impact on U.S. missile defenses; four, verification under the new treaty; five, the impact of the treaty on the disparity between United States and Russian nuclear force levels, especially regarding tactical nuclear weapons; six, the Bilateral Consultative Commission; and, seven, the impact of the treaty on prompt global strike.

Perhaps we should consider an eighth category and a new metric by which to evaluate the treaty. Secretary Clinton stated on March 18 before the Senate Foreign Relations Committee:

I am not suggesting that this treaty alone will convince Iran or North Korea to change their behavior, but it does demonstrate our leadership and strengthens our hand as we seek to hold these and other governments accountable.

I suggest the administration may want to carefully consider whether it wants the Senate to evaluate the treaty on that basis. What real progress has been made on nonproliferation since the President signed the treaty? Is the latest Security Council resolution an indication of the value of the New START?

While the U.N. Security Council has not adopted a resolution yet with respect to Iran, the announcement by the administration on May 18 included no reference to any sanctions that would close the noose around the IRGC, around Iran's energy sector, especially refined petroleum products, and Iran's banking sector, and all the other revenue streams that feed Iran's illegal nuclear weapons program and its terrorism apparatus.

Most of what is in the draft resolution—for example, references to the Iranian Central Bank—are in the preamble. The administration has told us that preambles are not binding. So which is it? Are preambles binding or is the draft resolution a bunch of words with little effect?

Also very troubling is the disclosure that the resolution does not prohibit the sale to Iran by Russia of the S–300 antiaircraft missile system. Not including the S–300 in the draft Security Council resolution is unfortunate confirmation that the administration has not ''reset'' relations with Russia in any meaningful way. In fact, the Moscow-based Kommersant Online reported this morning—and I quote—''Moreover, according to the terms of the deal, Washington is also lifting its objections to the sale to Iran of Russian S–300 antiaircraft missile systems.'' I cannot stress how important this issue is. Under no circumstances can the administration permit Russia to think the United States is not opposed to this transfer. If Russia proceeds with this transfer, not only will the Russian entities involved have to be sanctioned under U.S. law, but United States-Russia relations will be in a grave state of crisis.

It would appear the reason Russia agreed to the weak U.N. sanctions resolution is it will not affect any of its ties with Tehran. At the same time, it has announced it will embark on nuclear cooperation with Syria, as it announces, for example, the planned activation of the Bushehr reactor next August. What is the administration's reaction? We have learned it will roll back proliferation sanctions on Russian entities. Could this possibly be a quid pro quo for Russia's support for the draft resolution? I thought the START treaty was supposed to ensure their support. Nor has the President's ''leading by example,'' touted by Secretary Clinton, affected even NATO member Turkey and hemispheric member Brazil. The administration was obviously blindsided by Brazil and Turkey, working instead with Iran on an alternative plan.

So it is fair to ask: What progress has been made on nonproliferation that the administration can point to that suggests the START treaty is a meaningful tool in keeping States such as Iran and North Korea from violating their nuclear nonproliferation treaty obligations?

Let me turn back directly to START and begin the seven items I mentioned, beginning with the first: the modernization plan. This is the plan that section 1251 of last year's Defense Authorization Act required be submitted at the same time the treaty was sent to us for its ratification.

The key goal of most arms control agreements is to achieve strategic stability. The New START treaty was negotiated on the premise of numeric stability, but there are a number of underlying factors required, a foundation upon which to base that stability. For the United States, it is the confidence provided by both the current U.S. nuclear warheads and delivery systems and by the weapons complex and its capacity to sustain and modernize those nuclear warheads. For this reason, 41 Senators wrote to President Obama last December, highlighting the direct link between nuclear force reductions under the treaty and modernization of the U.S. nuclear weapons complex.

What are some of the factors that affect its strategic stability, beyond the treaty numbers? Well, first, the weapons we deploy must be safe, secure and, most critically, for stability they must be reliable. Given the age of our current weapons, averaging close to 30 years, we must be extremely diligent about monitoring those deployed weapons through our surveillance programs.

We also have warheads that require life extensions such as the W76, which is underway, and soon, I hope, the B61. Without life extension, these weapons will soon cease to be capable of protecting our country. We must be looking to the future stockpile with new approaches, including life extension, using a full spectrum of options responsive to future needs. To achieve this will require a strong science, technology, and engineering workforce in our national laboratories and military complex that maintains critical skills and is resolute in its determination to solve the complicated problems at hand.

We must make an intense, unified push to restore a viable production capacity for nuclear warheads. Herein lives the greatest chink in our armor. As former Secretary Schlesinger recently testified:

The Russians have a live production base. They turn over their inventory of nuclear weapons every 10 years. We do not.

Finally, we cannot neglect the delivery systems that carry these nuclear weapons. They are also aging and they also are prey to neglect and loss of critical capabilities.

The section 1251 plan was to address the issues I have just highlighted. We have received this classified report, and we are in the process of reviewing the statements of the administration to ensure that modernization is, in fact, adequately addressed.

The administration has outlined in this report a plan to provide, over the next decade, $80 billion for nuclear weapon activities and about $100 billion for delivery system activities. To be clear, most of this money is not new. In fact, the bulk of the money covers current spending levels plus inflation for the decade. While this is a needed improvement from the grossly inadequate fiscal year 2010 budget submission, we do not yet know how much the administration intends to commit to modernization and how it will be spent.

It has been well advertised that there is a renewed emphasis by the administration on sustaining our stockpile and modernizing the infrastructure. Congress has long recognized the need for this extra attention, for example, calling for the Stockpile Management Program and the section 1251 plan requirement in the fiscal year 2010 National

Defense Authorization Act. But after reviewing the fiscal year 2011 budget input, I am concerned the administration has not done all it should.

The fiscal year 2011 budget weapons activities part of the budget of $7 billion is a 10-percent increase over fiscal year 2010, with a 26-percent increase in the category of Directed Stockpile Work. This looks good on paper. The question is the substance. The fiscal years 2007 through 2009 plans from NNSA predicted that the fiscal year 2011 budget should be, on average, $7 billion—exactly what the administration asked for this year. What we need to know is how much in addition to the $7 billion for NNSA weapon activities over the next 10 years.

A cursory review of the numbers recommended in the section 1251 plan shows the proposed funding is, in fact, barely keeping up with inflation. In fiscal year 2010, Congress provided roughly $6.4 billion for the current nuclear weapons account at NNSA. If the fiscal year 2010 budget is assumed as a new 10-year baseline, that would be $64 billion of the $80 billion proposal for nuclear weapons activities at NNSA, assuming no increase for inflation or increased costs of modernization. If you assume a standard rate of inflation of 3 percent to cover cost-of-living adjustments in salaries and increased material costs using the fiscal year 2010 appropriations as the baseline, then holding that budget constant would require a total of $75.6 billion over the 10-year period. If a 2-year rate of inflation is used, then the increase is about $8 billion over the next 10 years.

Unfortunately, we know the fiscal year 2010 budget is not a sustainable baseline. The Senate Energy and Water Appropriations Subcommittee noted in its committee report last year that:

> The committee does not believe this level of funding is adequate to support modernization of the complex including critical investment in infrastructure and scientific capabilities.

So our stockpile is aging, refurbishments are behind schedule, the Cold War infrastructure is falling apart, and the critical science and technology skills that underwrite our nuclear deterrence are atrophied. But rather than seeing a new commitment to this problem, the budget request and the 1251 plan seem to be based on a plan—the fiscal year 2010 budget—that wasn't making much progress as it was.

It appears to me this plan was based not so much on what is needed but what funding the administration was willing to make available. In this case, it seems to be what funding Secretary Gates could sacrifice from his budget because that is how the additional money for this year came about. Why was the administration only willing to find funding authority in the DOD budget, the one department of the Federal Government engaged in fighting two wars? Secretary Gates had to transfer money from his budget over to the Energy Department budget.

As important as the amount of money available is the freedom to pursue all options available to ensure the safety, security, and reliability of our highly complex nuclear stockpile. The Nuclear Posture Review restricts options for modernizing existing warheads by stating:

> In any decision to proceed to engineering development for warhead LEPs—

That is, life extension projects—

> the United States will give strong preference to options for refurbishment or reuse. Replacement of nuclear components would be undertaken only if critical Stockpile Management Program goals could not otherwise be met and if specifically authorized by the President and approved by Congress.

The 1251 plan tries to deal with this overly restrictive limitation by stating:

> The Laboratory Directors will ensure that the full range of life extension program approaches, including refurbishment, reuse, and replacement of nuclear components are studied.

But it still reiterates that there is a ''policy preference for refurbishment and reuse in decisions to proceed from study to engineering development.''

Why would our nuclear scientists spend time and limited resources and risk their careers studying the full range of options if, when they make their recommendations, the President requires that they prove the impossible; namely, that replacement must be the only choice? Why isn't the standard instead what is the best course of action?

The Perry-Schlesinger Commission noted the importance of flexibility when it reported to Congress last May. It stated there are:

> . . . options along a spectrum . . . in between are various options to utilize existing components and design solutions while mixing in new components and solutions as needed. Different warheads may lend themselves to different solutions along this spectrum. The decision on which approach is best should be made on a case-by-case basis as the existing stockpile of warheads ages.

The bipartisan commission of six Republicans and six Democrats determined that:

> So long as modernization proceeds within the framework of existing U.S. policy, it should encounter minimum political difficulty.

Well, the NPR changes that policy, and the section 1251 plan reiterates the NPR language after initially suggesting scientists will be given complete latitude. I believe this will have a chilling effect on the scientists' work and that this issue must be resolved.

Similarly, we have questions concerning the administration's commitment to maintaining and modernizing nuclear delivery systems. While the administration suggests in the Nuclear Posture Review and the 1251 plan that it will maintain a nuclear triad, there is no funding in that plan for follow-on strategic systems, other than a replacement for our aging nuclear ballistic missile submarines. In fact, the 1251 plan notes that the administration will not even make a decision regarding a next generation bomber and a follow-on ICBM until 2013 and 2015, respectively. Likewise, rather than commit to a new nuclear cruise missile, the administration instead announces that a study is being done to determine if it will be replaced. Finally, the 1251 plan is silent on funding needed to develop and deploy conventional prompt global strike capabilities which, according to the Nuclear Posture Review, are to play a larger role in our strategic posture.

The notional nuclear force structure under New START suggested in the 1251 plan lacks sufficient detail. It calls for up to 420 ICBMs, up to 60 strategic bombers, and no more than 240 SLBMs. It would be helpful to know exactly how U.S. forces will be configured, how we might expect Russia to configure its nuclear forces, both strategical and tactical, and then have a net assessment to determine whether the United States is still capable of carrying out its deterrence missions, especially providing nuclear security guarantees to allies and partners.

With regard to New START limitations and force structure, the New START treaty limits the number of deployed strategic delivery systems to 700. Since the United States today deploys approximately 800 delivery systems, this will require a reduction of some 180 ICBMs, SLBMs, and/or strategic bombers to reach the treaty limitations—more if we deploy conventional global strike missiles, since, by the terms of the treaty, these must be counted as nuclear as well.

The Russians, on the other hand, are already below the 700 figure. So this is the first time that at least I am aware the United States will agree to launcher limitations that will require the United States to reduce its forces but require no reductions by Russia. It is fair to ask what the United States got for this concession.

Moreover, because a bomber counts as only one delivery system and one warhead no matter how many bombs or cruise missiles are loaded on it, the Russians are able legally to field more than 1,150 warheads limited by the treaty. While this may appear to advantage both sides, I do not fear U.S. cheating—we would not—but the Russians could, and because of weak verification tools in the treaty, I am not sure we will know. This is another reason to await the NIE before making a decision on the treaty.

Let me quote from the Heritage Foundation analysis on this point. It says:

> In fact, despite Obama administration claims to the contrary, New START's counting rules and apparent lapses will permit increases in Russian strategic force levels above the 1,700 to 2,200 deployed warhead limit of the Moscow Treaty.

I am not going to quote the remainder of this analysis, but I would ask unanimous consent that the statement, as I submit it for the RECORD, contain the remainder of this analysis.

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

According to a Heritage Foundation analysis:

In fact, despite Obama Administration claims to the contrary, New START's counting rules and apparent lapses will permit increases in Russian strategic force levels above the 1,700–2,200 deployed warhead limit of the Moscow Treaty. RIA Novosti, an official news agency of the Russian Federation, already has reported that given New START's counting rules, Russia will be able to retain 2,100 strategic nuclear warheads under New START, not 1,550. Russia will be able to deploy even higher numbers under New START if it follows through on-announced modernization programs, particularly the new heavy bomber. In addition Russia could deploy strategic nuclear systems that were limited or prohibited under START I, but appear not to be limited whatsoever under New START.

If Russia exploits the legal lapses in New START, there is no actual limit in the new Treaty on the number of strategic nuclear warheads that can be deployed. The number of Russia's strategic nuclear warheads would be limited only by the financial resources it is able to devote to strategic forces, not by New START warhead ceilings—which would be the case without this new Treaty.

Mr. KYL. The bottom line is, there were concessions by the United States. The Russian conventions are essentially strictly based on their financial situation, not by any New START warhead ceilings. So what I think we should ask is why did we agree to it and what did we get in return.

Additionally, what will the U.S. nuclear force structure look like after eliminating these 180 U.S. strategic delivery systems? I have already talked about it, but I wish to explain why this is an important requirement for Senators to consider before we vote on the treaty.

The administration has provided some initial information as a basis for future planning. It could retain up to 420 ICBMs, up to 60 strategic bombers, and deploy no more than 240 SLBMs at any time. We will require further details about where these reductions will be made and how this force structure fares against our most likely prediction about how the Russians will design their nuclear forces.

An issue of concern is that while the United States intends to deploy only single-warhead ICBMs under the administration's new NPR, the treaty appears to be driving the Russians to deploy multiple-warhead missiles for their ICBM force. Land-based multiple-warhead missiles have long been considered destabilizing because they place a premium on striking first for fear of losing a large proportion of one's warheads by a preemptive strike by the other side. For this reason, MIRVs were to be banned by the START II treaty that never entered into force. Now, 80 percent of Russia's ICBM force will be road mobile and MIRVed. In light of this, it is curious to hear the administration now argue that New Start will increase strategic stability.

Assuming the U.S. nuclear force structure is survivable, the next question is whether it is sufficient for deterrence purposes—especially the more difficult mission of extending nuclear guarantees to allies and partners.

As I said, the New Start treaty limits deployed strategic delivery systems to 700. A September 2008 white paper by the Defense and Energy Departments suggests a force of approximately 900 delivery systems is necessary for deterrence purposes, and in congressional testimony last summer, Admiral Mullen and General Cartwright expressed concerns with force levels below 800. How, then, can 700 be the correct number? Again, Senators must see the analysis themselves to make a decision on this. I don't see how a mere assurance in an unclassified committee hearing can be sufficient on a matter like this.

As to missile defense, despite being told consistently from the very beginning of negotiations that missile defense will be addressed only in the preamble of the treaty, we now discover that article V contains a direct restriction on U.S. missile defense activities—i.e. neither party can convert ICBM or SLBM launchers into launchers for missile defense interceptors. In fact, just prior to the treaty's public release, Under Secretary of State Ellen Tauscher said the following: ''But there is no limit or constraint on what the United States can do with its missile defense systems.'' Now, this begs two questions: 1, did Ms. Tauscher not know what was in the treaty her subordinates were negotiating; or 2, did whoever wrote Ms. Tauscher's talking points think Senators wouldn't notice an entire article of the treaty text?

Some administration officials have tried to explain this away by saying that, since this administration has no current plans to do so, it's not a constraint. That stands the English language on its head. This concession to the Russian Federation will establish a dangerous precedent with respect to including missile defense limitations in future offensive arms control agreements. Why did the U.S. side feel it necessary to concede this point? What did we get in return? Again, this is why it is important to see the full negotiating record.

When viewed together, the treaty's preamble, the Russian unilateral statement on missile defense, and remarks by senior Russian officials provide the potential for Russia to essentially blackmail the U.S. against increasing its missile defense capabilities by threatening to withdraw from the treaty.

The preamble states that ''current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the parties.'' Does this suggest that moving beyond ''current'' systems could provide grounds for withdrawal?

The Russians note in their unilateral statement that the treaty ''can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively,'' and also link American missile defense capabilities to the treaty's withdrawal clause. Shouldn't we read this as an attempt to exert political pressure to forestall continued development and deployment of U.S. missile defenses? The preamble doesn't have to be legally binding to be influential.

Even more disturbing is the administration's decision to limit U.S. missile defenses to be effective only against a ''limited attack,'' thus exempting Russian capabilities from the reach of our missile defenses. Since the U.S. unilateral statement makes quite clear that the administration intends to deploy only ''limited'' missile defenses to deal with ''limited attack,'' the administration has left itself no room to respond to strategic surprise or a disintegration of the current strategic relationship with key nuclear powers, let alone an accidental launch. Let me quote from the text of the U.S. unilateral statement:

The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed forces, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

Here is something else that's troubling. General Jones, in a May 12, 2010, letter to me wrote, ''Russian unilateral statement is both beyond the control of the Administration and not binding or limiting in any way on current or planned U.S. missile defense programs.'' I will repeat that because it is important: ''not binding or limiting in any way on current or planned U.S. missile defense programs.''

What about a program that is not current or planned? Our unilateral statement must lead one to ask whether the Russian statement was answered by the U.S. statement, in effect saying, ''you don't worry about our missile defense because we won't make it effective against you.'' What if a future administration decides to return to the concept of actually protecting America from any nuclear attack even from Russia?

The Russians will have the right to rely on these statements for at least the ten years of the treaty's operation. These statements may become the new baseline in future arms control negotiations between the United States and the Russian Federation. Ronald Reagan enunciated the vision of U.S. missile defense, which I believe is as true today as it was in 1983:

What if free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies? But isn't it worth every investment necessary to free the world from the threat of nuclear war? We know it is.''

I am concerned that when Russian Foreign Minister Lavrov warned, on March 28, that ''the treaty and all the obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive systems,'' it means the Russians will threaten to pull out of START if we deploy additional ground-based interceptors in Alaska or if we deploy the SM–3 block IIB missile in Europe, as the administration promised.

There is something fundamentally disturbing about entering into a treaty with the Russians when we have such a divergence in view over a substantial issue like missile defense. At the very least this likely sets the stage for misunderstanding and confrontation as the United States continues its missile defense activities, particularly in Europe. Remember, the goal of the treaty was supposed to be stability from a common understanding and agreement on core principles.

Those who have rushed to embrace the treaty must confront this reality and the administration must be required to square the circle.

On verification, Secretary Gates testified that this treaty provides ''a strong verification regime . . . which provides a firm basis for monitoring Russia's compliance with its treaty obligations.'' I certainly have a great deal respect for Secretary Gates, but I'm not sure how he can know that yet. Has he seen the NIE on the treaty? Or the State Department verifiability assessment? And, even if treaty noncompliance can be verified, what have we lost in intelligence as a result of the weakening of the verification compared to the START treaty?

Independent assessments of the treaty suggest important new gaps in monitoring. For example, the treaty no longer requires on-the-ground, continuous monitoring of Russia's missile manufacturing facility and permits Russia to withhold telemetry of many of its missile tests, undermining our ability to know how many missiles are being produced and, perhaps, limiting our ability to understand what new capabilities are being developed. The administration has blamed the Bush administration for this, and I have asked for the evidence in letters to the Secretary of State, including a December 4, 2009, letter. So far the administration has been unwilling to substantiate this allegation—which it could do by responding to my letters and inquiries on the matter.

The ability to monitor compliance with the terms of the treaty is important, but as important is whether our intelligence community can monitor the status of Russian strategic nuclear forces. What new capabilities is Russia developing? Is Russia building and stockpiling additional missiles and warheads that could provide it a breakout capability? Will we be able to maintain confidence in our assessment of Russian forces throughout the 10-year period of the treaty? According to Secretary Gates, ''And I think what you are likely to hear from them [the Intelligence Community] is that they have high confidence in their ability to monitor this treaty until toward the end of the 10-year term, when their confidence level will go to moderate.''

What is the impact of a judgment like that when we know Russia is increasing its reliance on its nuclear forces, conducting war games involving simulating raids against NATO allies like Poland, and modernizing almost every element of its strategic and tactical nuclear forces? For example, Russia is, in fact, deploying a new multipurpose attack submarine that can launch long range cruise missiles with nuclear warheads against land targets at a range of 5,000 kilometers—just barely missing the threshold to be considered a strategic weapon under the New START treaty. Of course, a tactical nuclear weapon has a strategic effect if it is detonated above a U.S. or allied city.

We will need the intelligence community to consider these important factors before we can fully evaluate the treaty; I look forward to a thorough NIE that rigorously analyzes our ability to monitor Russian nuclear forces. And, I am sure the Intelligence Committee will hold numerous hearings to flesh out these issues.

As to the impact the treaty has on U.S. and Russian nuclear force levels, especially regarding tactical nuclear weapons, the administration argues that New Start will ''increase'' or ''provide'' strategic stability, but has yet to explain why the 10–1 disparity in tactical nuclear weapons doesn't upset that strategic stability, especially at lower levels of strategic nuclear forces. As former Secretary of Defense James Schlesinger recently testified, ''the significance of tactical nuclear weapons rises steadily as strategic nuclear arms are reduced.''

The Strategic Posture Commission estimates Russia may have approximately 3,800 operational tactical nuclear warheads, and that the combination of new warhead designs and precision delivery systems ''opens up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.''

Likewise, Under Secretary of Defense for Policy, Michele Flournoy, has observed that the Russians are ''actually increasing their reliance on nuclear weapons and the role of nuclear weapons in their strategy.'' There is a fine line—actually, no line at all except as to how they are delivered—between strategic and tactical weapons.

If the Russians intend to use nuclear weapons to influence regional conflicts, then shouldn't we try to understand the impact of their numbers in the context of declining U.S. strategic nuclear weapons required by the treaty? In other words, what will be the effect of Russian tactical nuclear weapons on strategic stability and our ability to extend deterrence into various regions? We should understand this before agreeing with the administration's contention that this treaty increases stability.

The administration's retort is that they understand the importance of dealing with the disparity in tactical nuclear weapons, but that we must first ratify New Start before getting to Russian tactical nuclear weapons in the next treaty. But what leverage will we have left? And why should we think a ''next treaty'' that further reduces our weapons will be in our rational interest?

And if tactical weapons are as important as most seem to believe, why didn't we make them a priority in this treaty? Because the Russians didn't want to talk about them? Why was that enough to demur? How hard did we push? Again, this is why Senators need to see the negotiating record, and why they shouldn't make up their minds on the treaty until they do.

BCC—Bilateral Consultative Commission

One of the matters the administration will have to address before the Senate could consider ratification is the role of the Bilateral Consultative Commission in the treaty. As Ambassadors Edelman and Joseph observe in their May 10th National Review Online article:

> A preliminary reading of the Treaty Protocol suggests that the U.S. and Russian commissioners could reach secret agreement on changes to ensure the 'viability and effectiveness' of the treaty. These changes could create additional limits on missile defense that would appear to be beyond the reach of the Senate's responsibility to advise and consent.

Obviously, that is not acceptable. This matter will have to be thoroughly vetted during the hearings and presumably be dealt with in the resolution of ratification. While there may have been similar provisions in past treaties, the Senate should insist on a reasonable check on such an open-ended provision in the resolution of ratification.

Now to the conventional prompt global strike or PGS. Although tactical nuclear weapons were not addressed in this treaty, the United States conceded to Russian demands to place limits on our conventional prompt global strike capabilities by counting conventionally armed strategic ballistic missiles under the limits for delivery systems. At the very least, this will require a one-for-one reduction in U.S.-deployed nuclear weapons for each conventional ICBM it intends to deploy. This is yet another reason Senators need to see the force posture before they can make up their minds on the treaty.

The treaty also sets the stage for further limitations on U.S. conventional strike capabilities in the preamble by noting that the parties are ''mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability.'' Does any Senator imagine the Russians will not raise objections when

the United States begins the serious development of prompt global strike capabilities, as called for by the Nuclear Posture Review?

Moreover, the administration must be candid when it testifies about issues such as PGS missile defense. It cannot continue to state that the treaty does not limit PGS or missile defenses when it clearly does.

In conclusion, Secretary Gates and Secretary Clinton have predicated their support for the treaty on their answer to the question: Are we better off with an agreement or without it? They suggest that without the agreement, we would lack the ability to limit and monitor Russian strategic forces.

My response is twofold:

First, the existing 2002 Moscow Treaty already limits Russian warheads. True, the Moscow Treaty relied on the now-expired START treaty's verification procedures, but these could have been extended by mutual consent. The Russians refused or the administration did not bother to ask. We will not know until the administration shares the negotiating record with us.

Second, I believe the better question is, Are we better off with this treaty or a treaty that did not include any references to missile defense or prompt global strike and which did contain limitations on Russian tactical nuclear weapons? These are issues for Senators to consider when they debate the resolution of ratification and amendments to it, whether they be reservations or conditions or otherwise.

In her opening statement at the May 18 Foreign Relations Committee hearing on New START, Secretary Clinton asserted that ''the choice before us is between this treaty and no treaty governing our nuclear security relationship with Russia.'' This assertion is obviously a false choice. It reflects sort of an ''our way or the highway'' approach, completely inconsistent with the responsibilities of the Senate. Since the administration did not consult the Senate for its advice before making its negotiating concessions, it should not now argue that the Senate has only the choice of voting for the treaty that we cannot amend and therefore must vote yes and that it would be impossible to negotiate another agreement. After all, isn't that what both sides did in walking away from the START II agreement? The Senate is not a rubberstamp.

We have the opportunity and responsibility to fully understand this treaty and understand whether it furthers the security of the American people. And we must consider it in the context of other considerations such as the nuclear modernization that goes hand-in-hand with consideration of the treaty. The administration will have to find a way, for example, to ensure the necessary funding for modernization before the Senate votes on the treaty.

Sergei Karagonov, chairman of the Russian Council on Defense and Foreign Policy, summarized the Russian view of the treaty saying:

> In the course of the negotiations, Russia reached almost all of the objectives it could possibly set.

I think that is a pretty good metric by which to evaluate the outcome of the treaty. Are we able to say the same thing for the United States? That is a question which will need to be answered affirmatively for the Senate to ratify the treaty.

We have just begun the process of evaluation and potentially ratification. I urge all of my colleagues to refrain from judgments before our process is complete. I do not doubt there are arguments in support of the treaty. The recitation of my concerns today should be taken as just that—concerns—hopefully to make the point that there are reasons for us to be careful and thoughtful and not jump to conclusions. I look forward to an exercise worthy of the Senate in the consideration of this important submission.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

TRIBUTE TO OFFICER THOMAS WORTHAM IV

Mr. BURRIS. Mr. President, I come before this august body with a very heavy heart this afternoon. Last Friday night, just a few blocks from my home in Chicago, a terrible act of violence claimed the life of a young police officer. Thomas Wortham IV was a distinguished Chicago police officer. He was off duty on Wednesday night, so he went to visit his parents in a nice neighborhood called Chatham—in which I live only 2½ blocks away—to show them his new motorcycle.

Officer Wortham was used to putting his life on the line. In addition to being one of Chicago's finest, he recently served two tours in Iraq. He devoted himself to his community and to his country. He exhibited the same courage, valor, and selfless dedication wherever he went.

Thomas Wortham was a true American hero. He was the kind of person who keeps us safe and makes it possible for the rest of us to go about our lives free from fear; the kind of person who serves as an example to those around him and inspires others to give back.

But last Wednesday night, as he sat on his brandnew motorcycle outside of his parents' home, this remarkable young man was violently taken from us. After two tours in Iraq and endless hours patrolling the mean streets, Officer Wortham was struck down practically in his own backyard. Several young men tried to rob him, and he was shot in the struggle. His father, who is also a military veteran and retired police sergeant, heroically rushed to his defense and returned fire on those who attacked his son. But it was too late. Gun violence had already claimed Officer Wortham's life.

For all his heroism, for all the good he did for his community and his country, in the end Thomas Wortham IV was tragically killed where he should have been perfectly safe. There is no justice in this; there is no silver lining. This is just major outrage. It was a despicable, senseless act committed by dangerous people, all of whom must suffer the full consequences of the law.

Today, I ask my colleagues to join me in mourning Thomas Wortham IV, who was taken from us far before his time. Let us remember his selfless devotion to his community and to his country. Let us celebrate his heroism and honor his memory by living out his values in our daily lives.

I extend my deepest condolences to his family, whose pain far exceeds even the deep sense of loss felt by others in the Chicago community. This Nation stands with them today, just as their son stood with us in the sands of Iraq and the streets of Chicago.

As we lay this fallen hero to rest, let us do more than remember. Let us take action. This tragic murder reminds us of the gun violence pandemic that holds cities and towns across America in a vice grip. It can strike anywhere at any time, and it is tearing apart families, communities, and our own sense of security.

It is time to reclaim our future. It is time to stop the shooting and start to invest in education, violence prevention, and afterschool programs so we can keep guns out of the hands of criminals and keep kids from turning down the wrong path in the first place. This means creating jobs and cracking down on those who should not be able to buy guns. It means challenging our young people to aspire to a better life and giving them the tools to make the right choices so they do not end up on the road to violence.

This is not a political issue or a matter of dollars and cents. This is about the place where we live, work, and go to church, the places where our children play and go to school. Officer Wortham lived and died for these folks, for his friends and his neighbors and his countrymen. Even in a moment of tragedy, as we grieve this devastating loss, I believe we must summon the courage to walk in this young man's footsteps, to take up his cause as our own and lift up his noble example.

As I advised the parents when I met with them, let us take back our streets, our schools, our churches, and our children's future. Where Thomas Wortham IV fell, let us all rise in his place to confront this challenge and end the scourge of gun violence once and for all. Let us do that.

His family is also in mourning because retired Sergeant Wortham killed one of the offenders and shot the second one, who is now in critical condition in the hospital. Thank goodness for the Chicago Police Department and good detective work because the other two offenders are now in custody.

What we must do is stand and be counted when it comes to guns and

young people with guns in their hands and no jobs and no future and no hope. That is what we experience. In this legislation that is before this body, there is money that has to be provided for summer jobs for our youth.

Patrolman Wortham would not be the last person to expire through gun violence on our streets. I ask my colleagues to look at what we are doing and what we have to do and make sure we do our part to provide the resources and opportunity for our youth in these urban areas to have some hope, some direction, something on which to rely.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, the Department of State and Foreign Operations chapter of this supplemental totals $6.17 billion, which is the same as the President's request. The bulk of these funds are for emergency operations and programs in Afghanistan, Pakistan, Iraq and Haiti.

Senator GREGG and I supported most of the President's requests, but we could not support them all and there were other items, like pandemic flu and assistance for disaster victims and refugees in other parts of the world, which we could not ignore.

We also provide additional assistance for Mexico, where drug-related violence spilling into the United States is a growing concern of many Senators, and for Jordan, a key ally in the Middle East.

We include language requiring a determination by the Secretary of State that the governments of Afghanistan and Haiti are taking necessary steps concerning transparency and corruption. We require consultation with local communities and a central role for women in decisions about assistance programs.

The funds in the State and Foreign Operations chapter of this bill are for programs that are strongly supported by both the Department of State and the Department of Defense, in countries where the United States has important national security interests.

I very much appreciate the way Senator GREGG and his staff worked with me and my staff on our chapter of this bill. At a time when it is popular to complain that Washington is ''broken,'' the Appropriations Committee continues to do important and necessary work in its traditional, bipartisan manner and I think this bill is an example of that.

I want to thank Chairman INOUYE and Vice Chairman COCHRAN for the support they have given us during this process. I would also ask that if Members have amendments to the State and Foreign Operations chapter that they inform Senator GREGG and me as soon as possible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BORDER SECURITY

Mr. CORNYN. Mr. President, I would like to speak for a couple of minutes—I know the time at 4:45 is otherwise obligated; I will be briefer than that—about President Calderon's visit to the United States, his joint session speech to Congress, and a border security amendment I intend to offer, hopefully, as soon as tomorrow.

As you know, Mr. President, President Calderon addressed a joint session of Congress, and I was fortunate enough to have a very brief conversation with him in the anteroom before he came to the floor of the House, during which time I told him I admire his commitment to fight the drug cartels in Mexico.

During his remarks before the Congress and to the American people, President Calderon said some things I thought were very important for all of us to hear.

First of all, he said Mexico has gone ''all-in'' against the cartels—with increased commitments and personnel and equipment—and, unfortunately, is suffering significant losses and casualties in the fight. There have indeed been 23,000 Mexicans, approximately, since 2006, who have lost their lives in Mexico during these drug wars.

President Calderon also reminded us that Mexico is one of our most important trading partners, primarily as a result of NAFTA—the North American Free Trade Agreement. He pointed out that Mexico has, notwithstanding its other challenges, managed to keep its budget deficit low relative to its GDP—a record of fiscal discipline that should give us some embarrassment in Washington.

President Calderon acknowledged—and I think this is very important—that the lack of economic opportunities available in Mexico are a primary cause of illegal immigration into the United States.

While I admire some of the things President Calderon said, I do think he crossed a line he should not have crossed when he used this setting—a speech to a joint session of Congress and to the American people—to lecture Americans on our own State and Federal laws. For example, he criticized America's gun laws and seemed to suggest that we should somehow consider relinquishing our second amendment rights in order to help them disarm the cartels.

With all due respect to President Calderon, America's second amendment rights are not a proper subject of international negotiation with Mexico or any other nation.

Then President Calderon went on to criticize Arizona's immigration law last week on both ends of Pennsylvania Avenue—at the White House and at the Capitol—which I also believe was inappropriate under the circumstances.

There is no doubt there is fear and frustration all along the border—fear that the border violence that is raging just to the south is going to spill over into the United States, and frustration that Washington, DC—especially Congress and the President—is not doing enough about it. Arizona's law was written in response to this fear and frustration.

It is important to note—and this is a key fact that needs to be corrected on the record—that the Arizona Legislature amended their law to make clear that ethnic and racial profiling by law enforcement officials is strictly prohibited. That was a necessary and important change. But it doesn't appear President Calderon or many of the critics—including the President of the United States, the Attorney General, or the Secretary of the Department of Homeland Security—have actually even read the 10-page bill, which you can read online if you have access to the Internet. I have found it always helps in any discussion to actually know what you are talking about, to have actually read the bill so that you can have an intelligent conversation and perhaps then differ about policies.

But to misrepresent the contents of the bill, not having read it, is simply inexcusable.

To be sure, a patchwork of State laws is not the optimal way to fix our broken immigration system. We need sensible reforms at the national level. I am prepared to work in good faith with anyone committed to immigration laws that make sense in terms of our national security, in terms of the restoration of the rule of law, in terms of our economy and our values.

But some of the criticism of Arizona's law by the administration has been just simply misleading and counterproductive. Just last week we learned that a State Department representative—Michael Posner—actually apologized to China for the Arizona law, saying: ''We brought it up early and often.'' Early and often in talks with one of the most repressive regimes in the world? Unbelievable.

President Obama himself has set a bad example, repeatedly criticizing Arizonans for taking action while his own promises for immigration reform have gone unfulfilled.

The problem raging on our southern border is that the Federal Government needs to do more to improve our border security. That is something on which we can all agree and should all agree.

How bad is the situation? Well, this morning the El Paso Times reported:

> Mexican Federal police were attacked by a drive-by shooting during the weekend as Juarez surpassed 1,000 homicides for the year.

Ciudad Juarez—within several hundred feet of the city of El Paso in the United States—has lost 1,000 people to the drug wars just this year.

As I mentioned, it is estimated that 23,000 Mexicans have lost their lives in the drug wars during the last 3 years.

The fear is palpable on this side of the border. I must tell you, I have

never seen it quite this way. From Laredo, TX, to McAllen, TX, to El Paso—where people are accustomed to the novelty and the unique nature of our international border with Mexico, and they believe in maintaining those ties for economic and other reasons—people along the border in Texas, the longest section of the U.S.-Mexican border, are more apprehensive and concerned about what lurks just beyond the border. That fear ranges from cartels actively recruiting students in our public schools to gangs in order to help them with their drug-smuggling operations.

The Border Patrol has developed ''Operation Detour'' to show our students how the cartels treat the young people they recruit. The response to this video presentation has reportedly been powerful.

For example, in McAllen, TX, in the Rio Grande Valley, a 14-year-old girl made an emotional exit halfway during the presentation. She told the Border Patrol her father had recently been the victim of a cross-border abduction and her family was afraid to report the kidnapping to authorities for fear of retaliation from the cartel that took him.

In Rio Grande City, TX, another city in the Rio Grande Valley, kids were crying midway through the first video because the night before a classmate had died while running drugs.

Mr. President, our children are living in fear, but the White House's budget for border security shows it is living in denial. The President's budget request for fiscal year 2011 cuts the Secure Border Initiative by more than 25 percent, and we know the Department of Homeland Security is considering the elimination of the SBInet Program with no alternative or replacement in place.

The SBInet Program is a Secure Border Initiative. This is supposed to be the virtual fence that, along with boots on the ground and tactical infrastructure, are designed to help us contain and control movement of people across the border. Yet it has been cut by some 25 percent.

The President's budget also cuts the High Intensity Drug Trafficking Area Program—or the HIDA Program—by over 12 percent.

The White House even wanted to make cuts—albeit modest—to the Border Patrol by about 181 agents, before those of us in Congress made clear this was simply unacceptable. Rather than cutting, we need to be growing the size of the Border Patrol and the boots on the ground.

Mr. President, the amendment I intend to offer at the first opportunity—hopefully, tomorrow morning—says border security is a priority, not an afterthought. This amendment will fix six priorities to improve border security.

First, it will fund additional equipment that can help protect our border, including helicopters and Predator drones. We have been fighting with the Federal Aviation Administration to try to get them to quit dragging their feet in authorizing the use of unmanned aerial vehicles to patrol our southern border, to help the Border Patrol and other law enforcement officials do their job. We are just beginning to see some headway, but they are incredibly undersourced with the lack of helicopters and the lack of additional Predator drones.

Second, my amendment will fund additional personnel in several law enforcement agencies, including the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Immigrations and Customs Enforcement; Custom and Border Protection; and the Counterdrug units of the National Guard.

The third thing my amendment will do will be to fund improvements for task forces and fusion centers that enhance interagency cooperation.

Fourth, it will fund additional personnel and facilities to improve detention and removal activities under Federal law.

And, fifth, it will create a $300 million grant program to assist State and local law enforcement officials who operate within 100 miles of the U.S.-Mexican border. Because the Federal Government simply hasn't done enough in terms of border security, local and State law enforcement have had to step up, and they need the additional help that this grant program will provide to those local and State law enforcement agencies operating within 100 miles of the border.

Finally, my amendment will provide $100 million to fund infrastructure improvement at our ports of entry. This amendment is urgently needed, and I must add that it is fully funded. The total cost of my amendment is roughly $2 billion. This cost is fully offset using unspent stimulus funds because we know the White House predictions about the uses of those stimulus funds have been discredited.

Remember, we were told if we voted for a $787 billion unfunded—borrowed money—fund in order to get the economy moving again, unemployment would be kept to no more than 8 percent. Now, with unemployment at 9.9 percent, roughly, we know that stimulus program has been unsuccessful.

Two-thirds of the American people believe, according to Rasmussen—or I believe it is a Pew poll—the stimulus funds simply have not created or helped to retain jobs. We know during the period of time the White House predicted 3½ million jobs would be saved and created that 3 million jobs have been lost or destroyed by the recession.

This amendment represents a clear choice: a choice between funding the Nation's priorities, such as border security or funding the same failed stimulus strategy. It is a choice between paying for our Nation's priorities or adding more debt to our national credit card, already nearly maxed out at $13 trillion.

I would urge all my colleagues to support this amendment and help send the message to our border communities and across our country that the Federal Government acknowledges and accepts and embraces its responsibility to help keep them and our Nation safe.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

MOTIONS TO INSTRUCT

Mr. BROWNBACK. Mr. President, under the previous agreement, I call up a motion to instruct conferees that I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senate will resume the motions with respect to H.R. 4173, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.

The PRESIDING OFFICER. The clerk will report the motion to instruct.

The legislative clerk read as follows:

MOTION TO INSTRUCT CONFEREES

The Senator from Kansas (Mr. BROWNBACK) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on H.R. 4173 (the Restoring American Financial Stability Act) be instructed to insist that the final conference report include the House position relating to the exclusion for motor vehicle dealers from the rulemaking, supervisory, enforcement, or other authority granted to the Director of the Consumer Financial Protection Agency, as such exclusion is contained in section 4205 of H.R. 4173, as passed by the House, and that the final conference report preserves the additional provisions, definitions, and protections provided to such motor vehicle dealers and servicemembers and their families in Senate amendment 3789, as further modified, to S. 3217.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BROWNBACK. Mr. President, I wanted the clerk to read the full motion to instruct conferees so my colleagues could understand the simplicity and directness of this motion. It is a very simple motion to instruct conferees to recede to the House position in regard to auto dealers in the Consumer Financial Protection Bureau. The House considered this in committee, and two-thirds of the committee members—half the Democrats, all the Republicans—voted to exclude the retail auto dealers from the Consumer Financial Protection Bureau. That is the way they voted. It came up