MONDAY, SEPTEMBER 27, 2010

Senator

The Senate met at 2 p.m. and was called to order by the Honorable Roland W. Burris, a Senator from the State of Illinois.

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

Let us pray.

O Lord, our God, how majestic is Your Name in all the Earth. Thank You for the gift of this moment in time. Today, give our lawmakers an appreciation for Your gracious providence. Remind them that they need not fear the future when they remember the way You have led us in the past.

You brought our forebears to these shores and sustained them through bitter adversity. This great land was not produced by our might, wisdom, and ingenuity but by Your sovereign will. Lord, keep us from trying to navigate into the future without Your presence and power. Quicken the minds of our Senators to seek Your wisdom and to obey Your commands.

We pray in Your powerful Name.

Amen.

PLEDGE OF ALLEGIANCE
The Honorable Roland W. Burris led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The Presiding Officer. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Inouye).

The legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,
Washington, DC, September 27, 2010.

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Roland W. Burris, a Senator from the State of Illinois, to perform the duties of the Chair.

Daniel K. Inouye,
President pro tempore.

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

CREATING JOBS
Mr. Reid. Mr. President, the most important part of our jobs as Senators is to create jobs in our States. That is especially true in times such as these, when so many are reeling from so much economic pain.

Right now, as I speak, the President is signing into law our small business jobs bill. As soon as he does, $15 billion in tax relief and hundreds of millions of dollars in loans will be on the way to America’s small businesses, which we all know are the engines of our economy, engines that will power recovery.

Every penny of that help is paid for, and it will not add a single dime to the deficit. I spoke to the Administrator of the Small Business Administration on Thursday or Friday—I don’t know the exact day. She indicated to me that there were 1,000 applications for small business loans that will be completed within hours of signing that bill. The resources have simply not been there for her to do the work that is necessary. One thousand small businesses will be able to go forward on programs they have, programs dealing with retail sales, wholesaling. There will be businesses that will be exporters, importers, and any variation of small businesses.
businesses that you can imagine—restaurants. This will create many jobs immediately. So I was happy when I heard that from her. I knew that was going to be the case, but I wanted to hear it from her.

With that funding gets to where it is going, as many as one-half million people who are looking for work today will soon be on their way to a new job. We fought so hard for this bill against such stubborn minority opposition because we know we have to do everything we can to get people back to work. That means we have to work just as hard to create new jobs as we have to protect existing ones. It means that when a corporation tries to take away someone’s job in Nevada and send it halfway around the world, we have to stop them. We cannot let the greedy CEOs do that anymore, and that is exactly what we are going to do this week. We are going to take away the incentives that our corporations have to send our jobs overseas and give them powerful new incentives to keep the jobs right here in America.

Right now, our Tax Code actually rewards corporations for offshoring jobs. It is hard to comprehend that, but it is true. It helps them pay the costs of closing their plants and offers them tax breaks if they move production to other countries. The current system even encourages companies to ask their employees to train their foreign replacements. Think about how an American feels about that. That is a slap in the face to hard-working Americans. It is no way to get our economy back on its feet and certainly no way to get Americans back to work. Our bill rights this wrong, and it is going to help revive our Nation’s manufacturing industry. We are giving companies the right kind of tax cut, a payroll tax holiday as a reward for bringing jobs back home. So far, we have seen little to indicate that our friends on the other side of the aisle have any interest in protecting American jobs. Instead, we have seen them fight with great enthusiasm to keep corporate tax loopholes as wide open as possible.

Let’s use this week to remember whom we work for: middle-class families and the hard-working people who built this country and will rebuild it toward recovery; middle-class families and not corporations that take advantage of tax loopholes at their expense; American workers and not foreign companies that want to take away their jobs. That is the most important thing we can do.

Nothing is more important to me, as a Senator, than the work to create jobs in our States. Will the Chair now announce morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Delaware is recognized.

FISCAL AND ECONOMIC CHALLENGES

Mr. KAUFRMAN. Mr. President, although we have come a very long way since January 2009, our Nation faces profound short-term fiscal and economic challenges. In the short term, we need to do more so our economy will grow significantly again. This should include the small business jobs bill, the extension of middle-class tax cuts, and additional spending on infrastructure, as the President has proposed. In the longer term, we need to shore up our fiscal balance sheet and develop policies, including investment in innovation, research and development, clean energy and science, technology, engineering and mathematics—STEM education—that promote sustainable growth and job creation.

Unfortunately, instead of distinguishing between our distinct short-term and long-term problems, we have conflated them, focusing most of our attention on our immediate fiscal deficits.

Sometimes overlooked is that these deficits are, in a large part, legacies of unpaid-for policies of the previous administration, whether they be the wars in Iraq and Afghanistan, not paid for, tax cuts for the wealthy, which were passed and not paid for, or Medicare Part D, which was passed and not paid for. In addition, the economic fallout from the financial crisis, a problem of the driver of our current fiscal deficits, was itself a product, as you well know, Mr. President, of governmentwide deregulation.

While we all support cutting wasteful government spending, it is not, by itself, a solution to our fiscal woes. Indeed, if we were to eliminate all non-defense discretionary spending in the next fiscal year—Department of Justice, Department of Education, Department of Energy—we would still have a deficit of $700 billion; that is, if we eliminate all of them. We hear people coming to the floor and talking about cutting that, that is going to save us. If we eliminate the whole thing, go down Constitution Avenue and close down every building, we would still have a deficit of more than $700 billion.

This focus on Federal Government spending is shortsighted and even counterproductive, since it distracts us from the real problem of addressing our weak economic fundamentals. All too many Americans are painfully aware of the current economic conditions in which we find ourselves. It is clear these conditions would even be worse if not for the Recovery Act. It saved us from another full-blown depression and allowed us to rebuild our economy and add jobs. The nonpartisan Congressional Budget Office concluded that the American Reinvestment Act resulted in anywhere between 1.8 million and 4.1 million more jobs.

The CBO also estimated that our gross domestic product was 1.7 percent to 2.0 percent higher than the fourth quarter of 2010. Other economic indicators show similarly strong results, following the passage of the Recovery Act. After the passage of the Recovery Act, the markets hit bottom, with the Dow 6,547, on March 9, 2009, just about the time we passed the Recovery Act. Since we passed the Recovery Act, the Dow has risen dramatically, climbing above 11,000 early this year, even remaining above 10,000 amidst recent market turmoil, spurring higher by more than 7 percent in the month of September alone. All that happened after we passed the Recovery Act.

The Purchasing Managers Index, a leading indicator of business confidence, has also been generally trending upward since the passage of the Recovery Act. That is not where we want to be in testament to the magnitude of the problems inherited by the President and this Congress. Indeed, millions of Americans are without jobs and overburdened with debt. Although large corporate balance sheets are generally strong, many small businesses have limited access to credit, a condition which will be helped with the small business jobs bill, which the President signs today.

What is more, many businesses will simply not invest without consumer confidence. In such an environment, where consumer and business confidence is low, there are obviously limits to the effectiveness of monetary policy, irrespective of the creativity of the economists and policymakers at the Federal Reserve.

Fiscal policy, whether through direct government spending or through tax or other incentives, is the one lever we have to spur growth. As Olivier Blanchard recently stated: "If fiscal stimulus helps reduce unemployment and thus avoid an increase in structural unemployment, it may actually largely pay for itself and lead to only a small increase in debt relative to the alternative of doing nothing." Conversely, policies aimed at an immediate spending cut and a tightening of the proverbial fiscal belt could actually harm our economy. Therefore, it is critical we extend middle-class tax cuts and expand, not contract, stimulus measures.

In addition, the President’s $50 billion of infrastructure investment is a good way to put more Americans back to work, to make a downpayment on rebuilding our infrastructure.

Of course, our need to promote economic growth in the short term does
not make the need to address long-term fiscal problems any less urgent.

Former OMB Director Peter Orszag said in late July:

It would be foolish to dramatically reduce the deficit immediately, because that would choke off economic recovery. But it would be equally foolish not to reduce the deficit significantly by, say, 2015, because that would imperil continued economic growth at that point.

Accordingly, while we should not be raising taxes on middle-class families in the midst of a recession, we should also not make permanent the Bush tax cuts on the top 2 percent of Americans. Doing so would cost close to $700 billion over the next 10 years. That is not a policy of fiscal discipline.

The path to fiscal sustainability will require tough choices and tradeoffs. We, therefore, need to be supportive of efforts and decisions of the new bipartisan debt commission. But as important as it is to put our fiscal house in order, our Nation’s future prosperity will not be determined by accountants in green eyeshades. If we hope to promote sustainable economic growth and job creation, it is critical that we embrace the clean energy and that we support science, technology, engineering, and mathematics fields.

If we want to get the most bang for our buck now and long into the future, we should invest in clean energy. Studies show that $1 million investment in clean energy will create more than three times the number of jobs than if those dollars were invested in fossil-fuel-based energy projects.

The truth is that clean energy is the future of the global economy, and we should be investing in it today. Since 2005, global investment in clean energy has exploded, growing by 230 percent. But the United States is not keeping up with the global clean energy revolution. Of the 10 to 20 countries that have invested a higher percentage of gross domestic product in clean energy technology than the United States did, these investments created many jobs—over 1 million jobs in China alone. This growth is a direct result of policy decisions that commit to a clean energy future. The United States has failed to make a significant commitment to clean energy. Over the recess, Ernst & Young announced that for the first time, China had overtaken the United States as the second most attractive country for renewable energy projects.

We need to provide certainty in the energy market for investors, businesses, and industries. They tell us that none of this will happen without a price on carbon. Pricing carbon will reflect the true cost of our energy sources and enable market forces to drive American ingenuity to develop clean energy technologies that will create jobs, enhance U.S. competitiveness, and enable the long-term economic security we need. Pricing carbon is the most effective policy tool available to transition the Nation away from dirty fossil fuels. It will create incentives for businesses and industries to find the lowest cost solutions to reducing carbon pollution. Again, this is a market-driven solution. Leave it to the private sector. Give them the incentives to do the right thing and develop clean energy.

In addition to investing in clean energy, we may want to promote STEM—science, technology, engineering, and math—education. STEM jobs will be the jobs of the future. Whether it is energy independence, global health, homeland security, or infrastructure challenges, professionals will be at the forefront of the most important issues of our time. In fact, according to a new study released by Georgetown University’s Center on Education and the Workforce, by 2018 STEM occupations are projected to provide 2.8 million new hires. This includes over 500,000 engineering-related jobs.

We must also continue to support research and development—a challenge that requires significant Federal as well as private investment. In our current economy, it is often hard to imagine investing in the long run, but more research and development funding is fundamental to high-tech job creation. A recent report from the Science Coalition features 100 companies that can be directly traced to influential research conducted at a university and sponsored by a Federal agency. Examples include Google, Cisco Systems, and SAS.

It is imperative that we get our economy growing again so that we are in a strong position to tackle the very real challenges of the future. In the long term, our task will not be simply to get our government’s finances under control. As important as that is, it will also involve making the needed investment in areas such as clean energy and STEM that will ensure long-term growth and job creation. We face complex challenges in the 21st century. They include harnessing eco-friendly sources of energy and providing efficient and effective health care for an aging population. By making these investments in our future, I am confident that we can foster the innovation necessary to successfully address these problems and reestablish our leadership in an increasingly competitive global economy.

Finally, Americans always had the ingredients for success, and I am confident that in the coming months and years, the American ethic of innovation and hard work will once again return our economy to the path toward prosperity.

I yield the floor.

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

Mr. KYL. Mr. President, I ask unanimous consent to speak for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.
In fact, Johnson & Johnson estimates that about one in five U.S. employees hold jobs that support their international operations.

Let me provide an example of how foreign expansion can create jobs here at home:

A few years ago, PepsiCo embarked on an aggressive expansion program in Eastern Europe, largely by buying up existing bottlers and snack chip producers and improving plants and equipment, and improving distribution while increasing their marketing efforts in these countries, achieving large gains in sales as a result.

As a result of this expansion, PepsiCo's employment abroad increased, but that did not cost any Americans their jobs. Pepsi merely took over existing plants and their workers.

In fact, PepsiCo's foreign expansion created jobs here in the United States. To support their overseas operations, the company needed to expand their logistics, marketing, and other support operations, all well-paying jobs at their U.S. headquarters. As a result, expanding operations abroad increased employment here in the United States.

The advisers for the McKinsey report provided the jobs statistics that show the correlation between companies' expansion abroad and employment here:

From 1988 to 2007, employment in foreign affiliates rose to 10 million from 4.8 million. During that same period, employment in U.S. parent companies rose to 22 million from 17.7 million. As the Post example shows, that much of the expansion abroad by U.S. multinationals has complemented, rather than replaced, U.S. operations.

In 2006, a Washington Post editorial highlighted a study that made this same point. The study looked at U.S. manufacturers that expanded abroad between 1982 and 2004 and, as the Post wrote, "found that they tended to grow domestically as well, hiring more U.S. employees than them, more and spending more on research."

The study concluded that "the average experience of all U.S. manufacturing firms over the last two decades is inconsistent with the simple story that all foreign expansions come at the cost of reduced domestic activity."

New taxes could encourage some companies to locate more or all of their operations abroad, where they could escape the profit tax, since many countries do not tax income earned outside their borders. That could really happen. There is nothing that says corporations have to be located in the United States. U.S. multinationals will have little incentive to invest and hire here if tax policy prevents them from realizing attractive returns.

The McKinsey report cautions that policymakers have to be diligent about maintaining U.S. economic competitiveness:

The United States retains many strengths that make it one of the most attractive markets for multinational companies' participation and investments. But numerous fast-growing emerging markets [such as China, Brazil, and India] and some advanced economies are making progress in increasing their attractiveness, and are thereby influencing how multinationals decide where to participate and invest. Thus, the United States has faced increasing levels of global competition for multinational activity... Many of the executives we spoke with emphasized the need to ensure they are competing on a level playing field.

So let us not give foreign competitors a new edge by raising taxes on New American jobs.

A second point: Many American companies establish operations abroad, not"to export jobs" for reasons of "greed," as some of the bill's supporters charge, but to break into foreign markets, add new customers, or cater to a larger market abroad. The Pepsi example I just discussed illustrates this point.

According to the Department of Commerce, only 10 percent of foreign subsidiaries are into the United States. So 90 percent of the subsidiaries' sales are in foreign markets. The author of this article points out that the majority of companies are not moving manufacturing overseas only to sell goods back to the United States at a savings, but rather to cater to their customers.

A third point: Rather than picking winners and losers shouldn't we create an environment in which all companies become even more competitive?

"One way to do this would be to lower the U.S. corporate tax rate, which is the second highest in the world. A recent article in National Review points out that "by mid-2009, the U.S. corporate tax rate, including federal and state corporate taxes, was 39.1 percent. In Western Europe, the corresponding rates ranged from 34.4 in France to 26.3 in Sweden, to 12.5 percent in Ireland."

"The author of this article points out that on the most recent World Bank list of places to pay business taxes, the U.S. ranks 61st out of 183 countries, behind Finland, Switzerland, Norway, and the UK."

"This high corporate tax rate distorts business decisions, such as locating investments; hinders capital formation; and suppresses wages. Rather than increase taxes on certain companies, we should bring the rate down to help correct these distortions."

Let me quote a couple of lines from the Wall Street Journal editorial I mentioned before, they confirm:

"The U.S. already has one of the most punitive corporate tax regimes in the world and the U.S. tax rate is precisely what is being proposed in Congress to increase taxes on the profits of American companies with foreign subsidiaries, in Congress over increasing the tax on the profits of most other countries generates incentives for U.S. corporations to shift their income and operations to foreign locations with lower corporate tax rates to avoid U.S. rates."

"That is what is causing people to move abroad, the higher corporate tax rates here. Yet the bill before us would raise those rates even higher on companies that do business abroad."

One Volcker recommendation is to lower the corporate tax rate to closer to the international average which would "reduce the incentives of U.S. companies to shift profits to lower-tax jurisdictions abroad."

"So rather than raising taxes to try to punish U.S. companies that do business abroad, we should be reducing the tax rate to encourage them to stay here."

The Wall Street Journal concludes: CEO Steve Ballmer has warned that if the President's plan is enacted, Microsoft would move facilities and jobs out of the U.S. Thus proving the point. In fact, the chairman of the Senate Finance Committee, my colleague MAX BAUCUS, said in Congress Daily: "I think it puts the United States at a competitive disadvantage. That's why I'm concerned."

A concluding comment from the editorial:

"The lesson here is that tax rates matter in a world of global competition and the U.S. tax regime is hurting American companies and workers."

In conclusion, we are talking again about taxing Americans more at a very time when we should be finding ways to reduce the tax burden on Americans; in this case, so they can compete better with foreign competitors.

I return to the issue before us and, unfortunately, it apparently isn't going to be resolved before Congress leaves, and that is taxing small businesses as well. The proposal of the President and those on the other side of the aisle to raise taxes on American small businesses men and women and thereby threaten job creation is exactly the wrong medicine at this time. The proposed payroll tax holiday won't help small businesses at all. We have been coming to the floor for weeks saying: Don't increase taxes on any American. So far all we have seen is efforts by the majority in one way or another to find a way to increase taxes on segments of the American economy. That is precisely what is being proposed in the legislation before us.

I reiterate, now is not the time to be raising taxes on anyone, let alone companies that account for such a high number of new jobs. Let's tailor our policies to help these companies employ even more American workers.

EXHIBIT 1

(From the Wall Street Journal, Sept. 26, 2010)

THE SEND JOBS OVERSEAS ACT

Democrats may be dodging a vote on the Bush-era tax cuts, but that doesn't mean they don't want to raise taxes before November. Witness this week's showdown in Congress, when the Senate voted to suspend the benefits of American companies with foreign subsidiaries to punish firms that relocate plants
overseas. How much more harm can this crowd do before it’s run out of town? Like so many others, this tax increase is being promoted by President Obama, who declared, “For years, our tax code has actually given billions of dollars in tax breaks that encourage companies to create jobs and profits in other countries. I want to change that.”

Democrats around the country are making this issue their number one campaign theme, since it hits the health care stimulus or anything else they’ve passed into law. Think about this: One of the two major parties in the world’s supposedly leading economy is running against foreign investment and the free flow of capital. This is banana republic behavior.

We’re all for increasing jobs in the U.S., but the President’s plan reveals how out of touch Democrats are with the real world of tax competition. The U.S. already has one of the most punitive corporate tax regimes in the world and this tax increase would make that competitive disadvantage much worse, accelerating the very outsourcing of jobs that the President wants to reverse.

At issue is how the government taxes American firms that make money overseas. Under current tax law, American companies pay tax rates in the host country where the subsidiary is located and then pay the difference between the U.S. rate (35%) and the foreign rate when they bring profits back to the U.S. This is called deferral—i.e., the U.S. tax is deferred until the money comes back to these shores.

Most countries do not tax the overseas profits of their domestic companies. Mr. Obama’s plan would apply the U.S. corporate tax on overseas profits as soon as they are earned. This would drive companies to discourage firms from moving operations out of the U.S.

The real problem is a U.S. corporate tax rate that over the last 15 years has become a huge competitive disadvantage. The only major country with a higher statutory rate is Japan, and even its politicians are debating a reduction. A May 2010 study by University of Calgary economists Duanjie Chen and Jack Mintz for the Cato Institute using World Bank data finds that the effective combined U.S. federal and state tax rate on new capital investment, taking into account all credits and deductions, is 35%. The OECD average is 19.5% and the world average is 18%.

We’ve made this case hundreds of times on this page, but perhaps Mr. Obama will listen to his own economic advisory panel. Paul Volcker led this handpicked White House tax reform panel whose recent report concluded that “The growing gap between the U.S. corporate tax rate and the corporate tax rates of most other countries generates incentives for U.S. multinationals to shift income and operations to foreign locations with lower corporate tax rates to avoid U.S. taxes.”

As more countries around the world have cut their rates, the report warns, “those incentives [to leave the U.S.] have become stronger.” Companies make investment decisions for a variety of reasons, including tax rates. But as long as the U.S. corporate tax is more than 50% higher than it is elsewhere, companies will invest in other countries all other things being equal. One Volcker recommendation is to lower the corporate rate closer to the international average, which would “reduce the incentives of U.S. companies to shift profits to lower-tax jurisdictions abroad.”

Mr. Obama believes that by increasing the U.S. tax on overseas profits, some companies may choose to invest abroad in the first place. In some cases that will be true. But the more frequent result will be that U.S. companies lose business to foreign rivals. U.S. firms are bought by tax-advantaged foreign companies, and some U.S. multinational firms move their headquarters overseas. One Volcker recommendation is to lower the corporate tax rate to 12.5% or Germany or Taiwan, or dozens of countries with less hostile tax climates. We know this will happen because we’ve seen it before. The 1986 tax reform abolished deferral of foreign shipping income earned by U.S. controlled firms. No other country taxed foreign shipping income. Did this lead to more business for U.S. shippers? Precisely the opposite.

According to a 2007 study in Tax Notes by former Joint Committee on Taxation director Ken Kies, “Over the 1985-2004 period, the U.S.-flag fleet declined from 737 to 412 vessels, causing ‘U.S.-flag’ shipping capacity measured in deadweight tonnage, to drop by more than 50%.” Mr. Kies explains that “much of the decline was attributable to the acquisition of U.S.-based shipping companies by foreign competitors not subject to tax on their shipping income.” Mr. Kies concludes that the experience was “a real disaster for U.S. shipping” and that the debate over whether U.S. companies can compete in a global market facing much higher tax rates than their competitors was answered “with a vengeance.”

Now the White House wants to repeat this experience with all U.S. companies. Two industries—metalworking and automobiles—would be especially harmed would be financial services and technology, and their emphasis on human capital makes them especially able to pack up and move their operations overseas. CEO Steve Balmer has warned that if the President’s plan is enacted, Microsoft would move facilities and jobs out of the U.S. Finance.

The lesson here is that tax rates matter in a world of global competition and the U.S. tax regime is hurting American companies and workers. Mr. Obama would add to the damage. His electioneve campaign to raise taxes on American companies making money overseas may not be his most dangerous economic idea, but it is right up there.

The ACTING PRESIDENT pre tokenize.
The Senator from Nebraska.

HONORING OUR ARMED FORCES

STAFF SERGEANT MICHAEL BOCK

Mr. JOHNSON, Mr. President, I rise today to remember a fallen hero, U.S. Marine SSG Michael Bock of Omaha, NE.

Michael was a proud member of the 3rd Combat Engineer Battalion, 1st Marine Expeditionary Force Forward, operating in one of the most dangerous areas of Afghanistan, the Helmand Province.

On August 13, Staff Sergeant Bock was shot and killed while on foot patrol.

His death is a great loss to our Nation and especially to those of us from Nebraska.

Michael will be remembered as a caring, outgoing, and responsible young man, always ready to help family and friends with a smile and a burst of energy.

From childhood, he had wanted to serve in the military. At an age when many young Americans are not yet tackling adult responsibilities, Michael was ready to offer his service and sacrifice for our Nation.

He started Marine boot camp a month after graduating from high school.

The Marine Corps became a family for Staff Sergeant Bock.

In fact, he convinced his brother Dillon to join and serve in the military.

Over time Michael’s family grew. His marriage to Tiffany was followed by the birth of his son, Zander.

By that time, Staff Sergeant Bock had already seen combat during two tours in Iraq.

He served with distinction then, and again during his third deployment—this time to Afghanistan.

The Helmand Province is a well-known Taliban stronghold, but progress toward our goals has also been significant.

Afghan citizens there today enjoy freedoms they have not witnessed for generations.

Much of that credit is due to heroes like Staff Sergeant Bock.

His Marine buddies remember him as a disciplined NCO dedicated to accomplishing the mission at hand.

Family and friends say he was always positive and ready to help.

To his wife Tiffany, he was a devoted husband—a man whom his son, Zander, will undoubtedly admire his entire life.

His decorations and badges earned during his military career speak to his dedication and bravery: the Purple Heart, the Combat Action Ribbon, the Marine Good Conduct Medal, the Navy and Marine Corps Achievement Medal, the Afghanistan Campaign Medal, the Global War on Terrorism Service and Expeditionary Medals, the National Defense Service Medal, the Navy Unit Commendation, the President Unit Citation, the NATO Medal for Afghanistan, and the Sharpshooter Rifle and Pistol Badge.

Today, I join Tiffany, Michael’s other family members, and friends in mourning the death of their beloved husband, son, brother, and friend.

Michael made the ultimate sacrifice in defense of our Nation, and he now stands among our national heroes, never to be forgotten.

May God be with the Bock family, friends, and all those who celebrate his legacy that shall remain.

There is a very special class of Americans who wear the military uniform and shed their blood so that we can sleep safe.

Michael joined that special community of patriots, past and present, which protects America and keeps us free.

They shall be remembered and honored until the end of our days.

May God bless them and their families, and see them through these difficult times.

Mr. President, I yield the floor.

The ACTING PRESIDENT pre tokenize.
The Senator from Delaware.
Mr. KAUFMAN. I ask unanimous consent to speak as in morning business for 15 minutes.

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

AFGHANISTAN

Mr. KAUFMAN. Mr. President, I rise today to speak about our policy in Afghanistan, which has evolved significantly since I arrived in the Senate in January 2009. After President Bush diverted our focus from Afghanistan to Iraq in 2003, President Obama redoubled our efforts to engage in an effective counterinsurgency strategy. In the past year, we have finally invested the resources necessary to make progress in Afghanistan with increased troop levels, equipment, and funding. But despite this commitment and the outstanding performance of our troops, progress in Afghanistan is yielding more than the military. It also requires a civilian strategy, Afghan National Security Force training, cooperation with Pakistan, Afghan Governance, and tackling corruption at all levels, beginning with President Karzai.

The Obama administration has made a concerted effort to get the policy right in Afghanistan, as demonstrated by the two policy reviews conducted in 2009. An embarks on a third review this fall, I recommend focusing on corruption, which will serve as the bellwether for progress as we transition toward a conditions-based drawdown in July. The majority of Afghans do not support the Taliban, but they will not support U.S. efforts if they perceive their government as corrupt. According to a recent poll, 59 percent of Afghans cite corruption as the biggest problem, while 54 percent cite security.

At the same time, this is not a battle between the U.S. and the Taliban. It is a struggle between the Afghan Government and the Taliban for the support of the population. While less than 10 percent of Afghans actively support the Taliban, this does not necessarily translate into support for the Afghan Government in the absence of jobs, free and fair elections, an efficient judicial system, and other essential services. Counterinsurgency is about building trust and legitimacy among the population, the security forces, and the government. And without credible governance at the national and subnational levels, we cannot expect sustainable progress.

Since assuming office, I have traveled to Afghanistan three times in March and September 2009, and April of this year. My trips have been eye-opening experiences, and I have made the following observations. First, our military is performing at the highest levels. The new roads and bridges are a testament to the professionalism and dedication of those in uniform. This is both admirable and inspiring. Moreover, from the top down, the military has embraced counterinsurgency strategy, which is the best way to meet current and future security challenges. This is why I strongly support Secretary Gates’ efforts to rebalance the defense budget to better prepare for the non-conventional threats of the future, drawing on the lessons learned from Afghanistan.

My second observation is that counterinsurgency strategy in Afghanistan requires far more than the military. It requires a strong civilian capacity, including sufficient numbers of Afghan National Security Forces, or ANSF; a credible government at national and subnational levels of cooperation with Pakistan; and building Afghan government capacity through the elimination of corruption. In the past year, there has been progress in some of these areas, but significant challenges still remain.

When considering the sufficient number of ANSF, it is important to look to COIN doctrine, which stipulates one counterinsurgent for every 50 civilians. This requires nearly 600,000 counterinsurgents given the size of the Afghan population. If we add the total number of international troops plus current levels of the Afghan army and police, it is less than half the required 600,000. At the same time, there has been recent progress on security in Afghanistan, stemming from attrition and increasing recruitment and retention, especially among the Afghan National Police.

By comparison, the current level of Iraqi Security Forces is 600,000, which seemed like a lofty goal just a few years ago. Increasing the size of the ANSF is possible, but training an effective Afghan army and police will continue to require great patience, determination, and leadership. I have come to believe that the ANSF are about the same size and need 600,000 troops for our counterinsurgency. We have less than 300,000 now, security forces, troops, police, and our troops.

When I asked him about this issue last year, General McChrystal said that we did not need to reach the requisite level of 600,000 because the plan was to selectively focus on population centers in regional commands east and south. While it makes sense to hone in on areas with the biggest security problems, the Taliban has filled the void in areas where we diverted our attention. We have seen this most prominently in the north, where violence has increased in recent months as U.S. and international troops continue to concentrate, where they should, on southern Afghanistan.

In addition to levels of trained ANSF, I also remain concerned about the U.S. civilian capacity. It is positive that the number of civilians posted in Afghanistan more than tripled since President Obama took office—rising from 300 to nearly 1,000—there are not enough civilians posted outside of Kabul to partner with the local government. Today, there are approximately 400 civilians outside of Kabul, but more are required to reach the population of more than 28 million.

This underscores the need for building greater U.S. civilian capacity for engaging in counterinsurgency. We are more likely to face unconventional threats in the future, and must therefore prepare both the military and civilian agencies for such operations. This requires a whole-of-government approach and greater civilian-military coordination. While I pleased that joint training with the military is now required for all civilians deploying to the field in Afghanistan at Camp Atterbury in Indiana, other steps must be taken to build a cohesive civilian workforce for engaging in counterinsurgency operations. We must also increase interagency staffing of the Civilian Response Corps, as overseen by the Office of the Coordinator for Stability and Reconstruction (S/CRS), at the State Department.

In addition, an increased number of Afghan civil servants are required for partnership with U.S. civilians, especially as we look toward the build and transfer stages of the process. The establishment of the Afghan Civil Service Institute, which trains Afghan bureaucrats, is a step in the right direction. But examples such as Marja demonstrate that “government in a box” cannot replace the Afghan partnership with U.S. partners who can institute rule of law and provide credible government services. We must avoid situations like in Marja, where we opened the so-called government in a box and there was little government.

Since last year, cooperation with Pakistan has improved perhaps more than any other area. In April 2009, the military began an extensive operation targeting the Pakistani Taliban beginning in South Waziristan. These operations, coupled with high-profile arrests of Pakistani Taliban leadership, were positive developments. But there is no question that Pakistan—and especially the Pakistani intelligence services—could do more to target the Afghan Taliban and other extremists operating along the border in North Waziristan.

More than any other factor, however, corruption at every level of the Afghan Government and distrust between the U.S. and President Karzai are undermining our chances for success. This is the elephant in the room, which cannot
be ignored. We cannot afford to turn a blind eye to corruption, or deal with it only at the local level. Rule of law must be instituted from the top, and we will not succeed if corrupt officials escape justice. 

Since last year, this is the one area where there has been no progress. To the contrary, the Afghan Government has continued to derail corruption investigations led by Afghan institutions such as the Major Crimes Task Force and the Special Investigative Unit. This situation has worsen in recent months, as demonstrated by the recent case of Mohammad Salehi, an aide to President Karzai who was arrested for soliciting bribes. President Karzai personally intervened to secure Salehi’s release despite the fact that his arrest was ordered by the Afghan Attorney General and the investigation surrounding the charges against him was already underway.

As the administration prepares for a December review of its strategy, I am deeply concerned that the debate has changed from reducing corruption to determining how much corruption can be tolerated. This indicates that the administration has considered focusing on lower level corruption as opposed to that which stems from the top. Make no mistake, just as the “fish rot from the head,” the root of the problem stems from Kabul. This has been clearly demonstrated by the decisions to re-lease corrupt officials, which have been personally made by President Karzai.

Corruption in Afghanistan is a continuing problem that must be addressed at both ends of the spectrum. It is a fallacy to think we can delineate a clear line between corruption at the highest level and the local level, or that we can address this issue without dealing critically with the Karzai government over the Afghan Interior Ministry, and they operate with only minimal U.S. involvement apart from advising.

While we must be realistic to eliminate corruption completely, we must demonstrate that we are committed to doing so. And at the moment, we are moving in the wrong direction. We must measure and assess levels of corruption using a standardized metric to demonstrate that we are on an upward trajectory as we move toward the July 2011 drawdown date.

The recent establishment of three U.S.-led task forces to deal with corruption in Kabul is a good idea, but it is a tacit acknowledgement that our current strategy is not working. Now that the task forces have been created by the administration and by the Senate and by the House, coordination and implementation of a common strategy are key. At the same time, these task forces are worth nothing—they are worth nothing—if Karzai releases corrupt officials or stands in the way of investigations. As we approach July, the Karzai government must demonstrate it is willing to arrest, detain, prosecute, and punish those who are caught red-handed.

The war in Afghanistan is critically important and we must fight it. If we leave, al-Qaida and other terrorist groups will reconstitute and once again find safe haven in Afghanistan, which will undoubtedly increase the threat to the homeland. American lives are at risk, and it is our duty to do everything in our power to defend our national security interests and ensure al-Qaida does not return to Afghanistan.

That said, let me be clear on two critical points. First, we must remain dedicated to a top-to-bottom review of the entire Afghanism campaign this December. Anything less would be a disingenuous attempt to sidestep the hard questions that linger about this excessively difficult foreign policy issue. Second, and most important, the December review must assess whether the Karzai government is genuinely committed to detaining and prosecuting corrupt officials who are brought before U.S. courts as a result of articles of impeachment or articles of impeachment for crimes against humanity. Additional findings to the contrary gravely threaten our prospects for long-term success.

At the end of the day, we have to ask whether the Afghan people will choose the Afghan Government over the Taliban when we begin transferring security and governmental responsibilities to the Kabul government next year. Given the rampant graft and corruption, the Afghan government is the top concern of Afghan citizens who were polled—ranked even above their own security—the answer to that question will be no unless the Karzai government gets serious about this dilemma in a serious way.

This is what defines, more than anything else, our long-term success. And we should not continue—I cannot emphasize this enough—we should not continue to put our brave young men and women in harm’s way unless we are pursuing a strategy that we believe has a reasonable chance of success. This is the litmus test, and we must confront it head-on in December. As stewards of America’s treasure, both in terms of resources and in terms of American servicemembers’ lives, we owe the American people and our distinguished fighting force nothing less. And the American people deserve no less.

I yield the floor and 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.
Rather, it has been a feature of the tax law since 1918.

President Kennedy proposed outright repeal of deferral, but the then-Democratic Congress did not agree with him. Instead, the Congress and the President compromised. The compromise was this: For the passive kinds of income such as interest, dividends, royalties, and the like earned by a foreign subsidiary, the U.S. parent company would pay immediate U.S. tax whether or not the foreign subsidiary sent the earnings back to the parent. However, for active business income of the foreign subsidiary, there would be no U.S. tax until the foreign subsidiary sent such money to the parent corporation.

In short, the compromise during the Kennedy era was this: For passive income, deferral was repealed. For active income, deferral was still allowed. That compromise is embodied in subpart (f) of the Internal Revenue Code. That compromise was hammered out in 1962 following two years of trial and error. The compromise has stayed in place for the last 48 years.

The compromise struck in the John F. Kennedy administration was the right one. Passive income is easy to move to low tax jurisdictions, if a U.S. corporation had a lot of interest income, it was very easy to instead have the foreign subsidiary earn such interest income in a low tax jurisdiction. So when interest income was earned by a U.S. subsidiary of a U.S. parent corporation, there was a high likelihood that it was earned in the foreign jurisdiction out of motivation for the sole purpose of avoiding the U.S. tax. But with active business income, there are usually legitimate nontax business reasons for the income to be earned overseas. The reason a U.S. car company sells cars in Hong Kong is not out of some desire to avoid U.S. tax, but rather, out of a desire to sell cars to customers that live in Hong Kong.

So the underlying rationale to the subpart (f) compromise is this: If there is a high likelihood that a particular type of income is earned overseas out of a desire to avoid U.S. tax, then deferral will not be allowed. If there is not a significant likelihood of that, then deferral will still be allowed.

This is a very sensible rationale that was agreed to during President Kennedy’s administration in the 1960s, because one of the most fundamental tax principles of all this is transactions should not be tax motivated and should be motivated by business or other nontax reasons. Tax motivated transactions should not be allowed the benefits of the favorable tax treatment sought. This fundamental tax principle prevents the tax laws from distorting decisionmaking and from distorting the economy. And the bill that is now before the Senate, the so-called ‘runaway plant’ bill cannot be justified by any similar rationale. They say they want to repeal deferral for foreign subsidiaries having income from importing goods back into the United States. But are they claiming that when a foreign subsidiary of a U.S. company imports back into the United States, there is a high likelihood that the production of the good would have been in the United States? Is that what they want to avoid U.S. tax? They would have to be claiming that, if they wanted to be consistent with a half century of reasons why certain specific limitations on deferral have been justified.

But that simply won’t be. There are numerous nontax reasons for having a foreign subsidiary of a U.S. parent company import goods into the United States, and I will mention a few. One reason could be that there is only small demand for the product back in the United States as compared to the overseas markets. For example, diesel engine cars are very popular in Europe, comprising 50 percent of all car sales. Here in the United States, diesel engine cars are well less than 10 percent of all car sales. So there is very good reason for having diesel engine cars made in Europe and not here. Nonetheless, the bill before the Senate acts as if the reason these cars are not made here is because of our tax laws.

It may be the case that the company simply aren’t found in appreciable quantities in the United States. For example, there is no diamond mining or chromium mining to speak of in the United States. A U.S. parent mining corporation being engaged in diamond mining or chromium mining where such diamonds or chrome are imported into the United States may find deferral repealed. This could be true to the extent that the parent had any domestic restructuring at the same time it started up any foreign operations. But obviously the reason for the diamond and chrome mining outside the United States is not tax avoidance. The reason is those minerals are not found here in the United States. So I wish the sponsors of this bill to make clear whether minerals not found in the United States and imported into the United States would be included in this proposal.

I wish also to know whether this proposal would have applied to the Ford Motor Company’s ownership of Volvo. Ford owned Volvo cars from 1999 to 2008. During that time, many Volvos were made in Sweden and imported into the United States. If the acquisition had happened after the date of enactment, deferral would be denied in this situation, at least to the extent that Ford may have been shutting down any plants in the United States. However, no one can seriously claim that the reason the cars were made in Sweden rather than in the United States was from the desire to avoid U.S. taxes.

Keep in mind that another foreign company, the automotive giant Volkswagen, would not be treated the same way Ford’s Volvo car income would be treated. Volkswagen would be better off taxwise on competing auto sales into the United States market over Ford’s Volvo, thanks to this bill, if it were to pass.

There are lots of nontax reasons for having foreign subsidiaries of U.S. companies import into the United States. For example, the bill before the Senate does not recognize that fact, or maybe it doesn’t care. Perhaps the bill is motivated not by a desire to curb tax-motivated transactions but by something else. Perhaps the bill has an anti-free trade motivation. Perhaps the bill is attempting to do it in a difficult for American companies to conduct business outside of our country. Whatever the case, the bill’s sponsors should make the rationale clear—is it to curb tax avoidance or something else?

Perhaps the bill’s sponsors will admit that the bill has nothing to do with curbing U.S. tax avoidance. Perhaps they will say that it instead has to do with preserving and creating U.S. jobs. But that simply can’t be. There are no nontax business reasons for the income to be earned overseas. The reason a U.S. parent company has a foreign subsidiary, then this creates managerial headquarters jobs in the United States that would otherwise not be here. The bill before us might encourage American companies to simply sell off their foreign subsidiaries. This would, in turn, mean laying off employees in management positions at the American headquarters.

A bigger way this bill would hurt employment in the United States would be to discourage assembly jobs in the United States. A U.S. parent company could have foreign subsidiaries engage in manufacturing parts that are shipped back to the U.S. parent. The U.S. parent, in turn, might assemble those parts here in the United States into a finished product. So, yes, maybe this bill would encourage the company to repatriate the parts production, but it is just as easy to imagine that this bill would encourage the company to repatriate the assembly jobs. So this bill is an unacceptable gamble with American jobs.

In the words of the late Senator Moynihan, who preceded me and Senator BAUCUS as chairman of the Senate Finance Committee—he spoke in opposition to a proposal 13 years ago, so this issue has been around this body for a period of time. He said this: “Investment abroad that is not tax driven is good for the United States.”

Senator Baucus’s point that this would be good for the United States is a competitive disadvantage is exactly right. I don’t have the exact quote of Senator Baucus, but it was in Congress Daily.
recently, I am sorry I don’t have that quote for my colleagues.

Senator BAUCUS very rightly states it. Phil Morrison, the Treasury Department’s international tax counsel, criticized this proposal in congressional testimony 19 years ago. Mr. Morrison noted that the bill would be very hard to administer and that it departed from the traditional focus of the limited areas where deferral is denied.

As President Clinton’s international tax counsel, Joe Guttenstang, explained in 1996, during the Clinton administration:

Current U.S. tax policy generally strikes a reasonable balance between deferral and current taxation in order to ensure that our tax laws do not interfere with the ability of our companies to be competitive with their foreign-based counterparts.

This proposal has been made available after year after year for 20 years. I ask that my colleagues again reject it, in an effort to keep American companies globally competitive, to protect American jobs, and to preserve the underlying rationale of why deferral should only be denied in limited circumstances.

Finally, I wish to briefly comment on one of the bills—the payroll tax holiday. This, too, has provisions that will be difficult to administer. For example, do foreign workers actually have to be fired to have their employer pay the payroll tax holiday in the U.S.? Do they need only to be reassigned job roles?

This provision only scores, according to the Joint Committee on Taxation, as costing $1 billion. Let’s make sure we are clear on this point. The other side is seriously considering raising taxes on small businesses—the lead creator of jobs—by tens of billions of dollars by letting top individual tax rates go back up in the year 2011. But in an effort to support job creation, they offer this $1 billion payroll tax holiday.

According to the Joint Committee on Taxation, 50 percent of small business flowthrough income will be hit by a marginal tax hike of somewhere between 17 percent, on the low end, and 24 percent, on the high end. That tax increase is scheduled to hit these job-creating small businesses in just a little over 3 months. Finance Committee Republican staff calculates the effect of that tax hike to be 50 times the benefit from this holiday bill. On our side, we don’t see the logic of raising $50 in taxes and providing a complicated tax benefit of just $1.

Why aren’t we dealing with the real problem for the folks responsible for creating 70 percent of American jobs? Of course, that is small business. We ought to take time out on the tax hit that is coming to small business this December. That is what we ought to be debating on the Senate floor.

But the Democratic leadership would rather have the time talking about a bill that is artfully politically labeled a jobs bill. Given that the bill will lead to a net loss in American jobs, it seems there might be a truth-in-labeling claim against the Democratic leadership.

Let’s have votes on real job creation incentives and get out of this gamesmanship. Let’s do the people’s business and forestall the big tax hike coming at American small businesses.

I also wish to take some time to address the issue of the estate tax, which is going to expire at the end of this year, at the very same time.

The majority party had control of the Senate since January 3, 2007. That is 3 years, 8 months, and 24 days ago.

During the 3½ years of Democratic control, my colleagues have had an opportunity to address the death tax. More pointedly, the Democratic leadership had a duty to provide certainty in the law as it relates to the estate tax.

My colleagues have had the duty to address the fact that this ill-conceived tax will snap back to pre-2001 law on January 1, 2011.

That is only a little over 3 months away. To be exact, it is 3 months and 5 days from now.

Unfortunately, as this chart shows, the estate tax is not the only piece of long overdue tax legislation.

Mr. President, the practice of “good government” is providing certainty in the law.

What I mean is, our country is made up of law-abiding citizens. As legislators, we are hired by these law-abiding citizens to make the law.

When we fail to provide certainty in the law, we fail to do our jobs.

But despite the fact that the Democratic leadership has not acted in over 3½ years we still have 3 months before the estate tax reverts back to a 55-percent tax rate and a $1 million exemption amount. So Congress still has time to act.

But I am skeptical that the Democratic leadership will indeed act.

Why? Because when my friends on the other side of the aisle were in the minority earlier in this decade, they blocked—let me repeat blocked—Republican efforts to make permanent an estate tax law that law-abiding citizens all across America could rely on.

The first effort was made in 2002. Specifically, on June 12, 2002, the Democratic leadership blocked legislation that would have permanently repealed the estate tax.

In 2004, Republicans in the House of Representatives approved a bill that would have permanently repealed the estate tax. But due to maneuvering by the Democratic leadership, a vote in the Senate was never allowed to occur.

Finally, in 2006, Republicans offered a compromise proposal on the estate tax. Under that compromise, the estate tax unified credit exemption would have gradually been increased to $5 million. The rate would have also been phased in to a 30-percent tax rate.

But again, the Democratic leadership filibustered the proposal to its death.

Mr. President, I believe on our side we were practicing good government as it relates to the estate tax.

We were doing our jobs, and providing certainty in the law.

Yet the Democratic leadership continued to stymie efforts to provide certainty in the law.

So why is the estate tax being held hostage?

Because a number of liberal leaning Senators would be satisfied if the estate tax reverted back to pre-2001 law—that is, a 55-percent tax rate and a $1 million unified credit exemption amount.

And why wouldn’t they? There is $233 billion in extra revenue to spend.

Also, in this hyperpartisan environment that is plaguing the Senate, many policymakers are politicizing the estate tax law.

What do I mean?

A number of Senators have taken to the Senate floor and characterized a reasonable estate tax rate as a “give-away” to the rich.

These Senators also argue that if the estate tax is ratcheted up to a 55-percent tax rate, we could use that revenue to reduce the deficit.

I respect every Senator’s opinion, but I question whether these members are actually going to use this revenue to reduce the deficit.

Unfortunately, we have seen my friends’ desire to spend, spend, spend. Increasing the deficit one dollar at a time. Not the other way around.

I will acknowledge that due to the budget rules that we must live by here in the Senate, making permanent an estate tax regime at a tax rate lower than a 55 percent will result in revenue loss to the government.

For example, my friend Congressman POMEROY—a Democratic Congressman from North Dakota—sponsored a bill to make permanent the estate tax at a 45-percent tax rate and a $3.5 million unified credit exemption amount.

When you compare this proposal against what the estate tax would revert to in 2011—a 55 percent tax rate and $1 million exemption—you find that this change in the law would cost around $233 billion over 10 years.

Now, when you compare $233 billion to the $2.5 trillion health care reform bill that was recently signed into law, it is a drop in the bucket.

Also, compare this to our $13 trillion national debt.

But $233 billion is nothing to sneeze at.

While it could be used to reduce the deficit, my colleagues on the other side of the aisle have made every indication that they will simply spend this money.

My colleagues on the other side will gloss over their plans to spend, and instead attack any proposal that includes a tax rate lower than a 55-percent as a “give-away” to the rich.

I have some news for my colleagues. A large number of Americans who
would be impacted by a 55-percent tax rate and a $1 million unified credit exemption are not “rich.”

Let me repeat that. Those taxpayers that would be impacted by the estate tax if it reverted back to pre-2001 levels are not wealthy people. They are farmers and small businesses.

I would like to take a moment and provide me with colleagues and a real world example of an Iowan who would not consider herself “rich.”

Recently, I received an email from Landi McFarland, who is a sixth generation Iowa farmer. Her family homesteaded land in Union county 154 years ago. I have concerns about current estate tax law.

This is what Landi had to say about the impact of the estate tax and her ability to continue the family farm: . . . As a 6th generation Iowa farmer whose family has farmed the same land for 154 years, I am 26 years old and have a dream of pursuing a future in agriculture. The same as the generations that have come before me.

I currently raise Angus cattle with my parents and grandparents, where we are tax-paying citizens and supporters of our local economy. My grandparents are both 84 years old, and own about 90 percent of the land, cattle, and equipment on our farm. Their combined estates will total approximately $7 million (the vast majority of this being farm assets like land and cattle). Recent land values have escalated the values of my grandparents’ estate.

Those higher values, however, does not increase the value of what the land produces (Angus cattle sell for the same price no matter if the land is valued at $1000 or $4000 per acre).

If my grandparents pass away after 2010, and current estate tax laws are not fixed, my family will not be able to afford to pay the estate taxes without liquidating the herd and selling a large portion of the farm ground. This will put an end to our business that we love, and hence end to our support of local businesses through daily business operations.

In the last four years, my family has worked on estate planning to try to help ease the burden of estate tax. This includes taking advantage of the $12,000 tax-free gifting each grandparent can do per person per year.

However, this only amounts to a total gifting of $48,000 per year, a drop in the bucket for a combined $7 million estate.

We are one of the oldest Angus operations in the country, and is all we wish to do is continue our family business that has been built with our own blood, sweat and tears over the past years. If current estate tax laws are not fixed, there will be thousands of small family businesses like ours put out of business. We need a SENSIBLE and PERMANENT fix.

Thanks for your help.
—Landi

Mr. President, Landi’s story is not unique to her. There are more farmers like her in Iowa and around the country.

I want to talk more broadly now about how failing to address the estate tax sunset will affect Iowa farmers.

Over the past few years, farm prices have been escalating dramatically. According to the U.S. Department of Agriculture, U.S. farm prices have nearly doubled in the last decade.

While recent economic troubles have led to home prices dropping, this has not been the case for farmland. In fact, as reported in a recent LA Times article, Wall Street investors have actually turned to purchasing farmland in hopes of finding refuge from an unstable stock market. This in turn has pushed farmland prices higher. Based on a recent survey by the Federal Reserve Bank of Chicago, Iowa farm prices are up 8 percent in the past year alone.

Why is this discussion of escalating farm prices significant? Because if the estate tax law reverts to 2001 law, many farmers are going to be surprised to discover they will be considered “rich.”

Now, I am not talking about wealthy corporate farmers. I am talking about many family farmers, just like Landi, who are taking over a farm that has been passed down for generations.

Mr. President, let me walk my friends through some data.

In 2007, the average Iowa farm was 331 acres.

According to a survey conducted by Iowa State University, in 2009 the average acre was worth $4,371.

Let’s do some simple math. If we multiplied the average acreage of an Iowa farm—which was 331 acres as reported in 2007—by the average cost per acre in 2009—which was $4,371 in 2009—we find that the average Iowa farm is worth $1.4 million.

Mr. President, $1.4 million exceeds the $1 million unified credit exemption amount that would be in place on January 1, 2011, if Congress does not act.

Admittedly, the value of a farmer’s farmland does not tell us conclusively whether or not the farmer will be subject to the estate tax. Farmers sometimes carry debt. That would reduce the value of the farm. But they also have assets, including equipment and bank accounts, that would increase the value of the estate.

Let me share with you some national statistics.

The Joint Committee on Taxation has told us out of 92,700 estates of people dying in 2011, 49,000 of these estates would be subject to the estate tax. Farmers some-
their workers, and move the manufacturing to China or Mexico, for example—let’s take China—actually get a tax break from our country that says if they are on one side of the street and their competitor is on the other side of the street, and they close their plant, fire their workers, and ship the product over to China, hire people there, manufacture the same product, ship it back here, their country will be generous enough to say: Good for you, we will give you a tax break for doing it. That is what happened.

In the narrow scope of what is in this amendment they object to, deferral says if they leave this country with their jobs, shut them down here, move over there, manufacture there with foreign workers, and then ship the product back into this country to compete against the business men and women who stayed here, who manufacture here, who employ people here, they are not going to get a tax cut anymore. It is just not fair.

My colleagues say we have to have this principle called deferral. What about having every American have the opportunity for deferral? How about every American having the opportunity to defer their income taxes until the next year? Is it more convenient for them? No, not everybody gets these things. Just the interests at the very top.

Then when we tried to narrow it a little bit because it gives a permissible incentive for jobs overseas, we have people standing up saying: We support those companies that are moving American jobs overseas. We support those jobs in China. God forbid you want to interrupt this process.

My colleagues say: In 1962, there was this carefully crafted tax agreement on deferral—48 years ago. Do not interrupt that after 48 years. We made this careful agreement 48 years ago.

Let me tell my colleagues what has happened since then. I have shown this on the Senate floor before. In the last 48 years, the tax system has changed a little bit. This is a five-story white house on Church Street in the Cayman Islands called the Ugland House. The first time I showed this chart—by the way, this is enterprising reporting by David Evans from Bloomberg—there were 12,748 companies in this building. It is only a five-story small white building on Church Street in the Cayman Islands. It was inhabited by 12,748 corporations all crowded into a little building. My colleagues just say: Were you there? No, they just got their mail there. Why did they get their mail there? So they could slip under the American Tax Code and not pay taxes to the U.S. Government.

When I first showed this chart some years ago, it was 12,748 corporations. But there was room for more. Now there are 18,857 entities that call this building home. Is that unbelievable? They must enjoy each other’s company or at least their mail must fraternize.

Mr. President, more than 18,000 companies claim that little building. We made this careful agreement in 1962 on deferral? How dare you deal with the Tax Code in a way that you would upend that 1962 agreement. Everything has changed. There is not a ghost of a chance in 1962 that American companies would have even thought of trying to move Hong Kong—just gather together in a mailbox in a white building someplace to avoid paying your obligation to this country.

I have shown this as well. Wachovia Bank (formerly First Union Bank) was acquired by a bank in Bouchum, Germany. Why? Did they have sewage specialists on their staff? I don’t think so. Did they put out television advertisements: Come do business with Wachovia Bank because we know about sewers or we want to buy sewers in foreign cities? No, they did this to avoid paying U.S. taxes. This is Wachovia Bank. They did not pay $175 million in U.S. taxes because they bought a sewage system from a German city.

Did they move the sewage pipes? No. Do they know anything about sewers? No. They bought it from the German city and leased it back so they could depreciate it and not have to pay U.S. taxes. Unbelievable.

The Tax Code changed, I say to my friends. It is a punch board of gimmicks allowing people to do things they could not previously have done before, and the most significant enterprise is to move American manufacturing overseas and get a tax break for doing it.

This amendment is very misunderstood based on the discussions by the two previous speakers. There is discussion on the floor of the Senate about what is the motivation for moving jobs overseas to serve, for example, a foreign constituency: want to move jobs to China to be able to sell into Thailand or Korea. The tax deferral piece of this amendment does not affect you. You can win that argument we are not going to get jobs overseas. This amendment does not affect you. The deferral part of this amendment does not do anything of the kind.

This amendment is narrow—narrower than I would have it, as a matter of fact. But it says if you are going to get rid of your American workers, close your plant, move those jobs elsewhere, and then ship back into this country to compete with the American businesses that stayed here, you do not get the advantages of the payment of U.S. taxes. It is just very simple.

The question today is not just who is going to stand up for American jobs on this floor, who is going to stand up for American businesses that stayed here, manufactured here, hired workers here, paid the rent here, who is going to stand here and support that? I have not heard it yet.

Let me go through some points. Before I do, let me mention one other thing. Some of my colleagues just said: There are some things you cannot make here. So if you make them abroad, we do not want to punish you in our Tax Code from selling them in this country. They previously used bananas. I want my colleagues to understand, we actually have a banana exemption. We do not actually spell out bananas, but because the specter of fruit was raised the last time this was discussed, we included a banana exemption.

Of course, we do not grow bananas in the United States. If somebody ships back here, they will not be affected by this amendment either. There are a lot of points raised that have nothing at all to do with what we are describing in terms of public policy.

Let me go through a few items. Some people may not know this. I described previously in unsuccessful attempts to try to do what we are doing that in New Jersey, there are a lot of folks who loved their jobs and they worked furniture. One company, Wachovia, actually shoveled fig paste. By the way, the company’s name was Nabisco, which stands for National Biscuit Company. But it was not quite so national because Nabisco, the National Biscuit Company, decided the pay they had to provide for people to shovel fig paste in New Jersey was way out of line, so they just took Fig Newtons right off to Mexico. If you want Mexican food, buy some Fig Newtons. It goes on and on. The list is so long.

I want to mention, as I have mentioned before, some of these same stories because it is important to understand what motivates people who want to stand up for American jobs.

Pennsylvania House Furniture—I was in Pennsylvania this weekend—was made in this country for over 100 years with fine Pennsylvania wood. It was a wonderful company making high-end furniture. One day, Wachovia to La-Z-Boy. La-Z-Boy decided: We are going to move Pennsylvania House Furniture to China, and we are going to ship Pennsylvania wood to China and have Chinese workers put the wood together and ship it back to be sold in the United States. It had nothing to do with whether the folks at Pennsylvania House Furniture were slothful, indolent workers not doing their job. It had nothing to do with that.

What it had to do with is La-Z-Boy did not want to manufacture Pennsylvania House Furniture in the United States. They wanted to acquire 50-cent an hour labor, 12 hours a day, 7 days a week in China.

On the last day at work at the Pennsylvania House Furniture manufacturing company, these craftsmen—nearly 500 craftsmen—as the last piece of furniture came off the line, they took off their gloves, they all gathered round to sign their name on the bottom of the cabinet. These wonderful American craftsmen signed that cabinet. Somebody has a piece of furniture they are probably not aware has the name of how workers who were fired as those jobs went to China. Why did they do that? Because they cared about their jobs and were proud
of their work, but they could not compete with 50-cent-an-hour labor. Stanley Furniture in Virginia is a furniture company that was started by Tom Stanley, a young dairy farmer in Virginia. He started it in a city that now we call Stanleytown. A couple of months ago, it was decided that Stanleytown was going to have some pretty bad news. Stanleytown was going to find out that these jobs were no longer going to be in Stanleytown. Stanley Furniture, another fine furniture manufacturer, was going to Ohio: You know what, you can’t do it. After the last day at work, where they parked their cars in the parking lot, those workers were fired that day left a pair of empty shoes in the places where their cars were parked. It was the only thing they could do move our jobs to China, but you can never replace American workers. So I could go on and on, but I want to describe what so many here in this Chamber wish to ignore. This is a quote from Mr. Paul Craig Roberts, one of the top Treasury officials in the Reagan administration. Here is what he said this year:

Outsourcing is rapidly eroding America’s superpower status. Only fools will continue clinging to the premise that outsourcing is good for America.

Only fools will cling to that premise. And I agree with him.

Again, another quote from Mr. Paul Craig Roberts:

In order to penetrate and to serve foreign markets, U.S. corporations need overseas operations. However, many U.S. companies use foreign labor to manufacture abroad the products that Americans make. If Henry Ford had used Indian, Chinese, and Mexican workers to manufacture his cars, Indians, Chinese and Mexicans could have possibly purchased Fords but not Americans.

Again, he is absolutely right. It seems to me the question is, will America remain a world-class economic power without a world-class manufacturing capability? Does anybody really believe that could be the case? You are going to decimate and erode a manufacturing base in this country and then say: Things will be just fine; don’t worry about it. We can all sell hamburgers to each other and things will be just great? We know better than that. What is happening before our eyes is a hollowing out of America’s manufacturing capability.

There is a lot of discussion about what do we do about trying to create new jobs in the country, and that has to do with what is called the faucet. If we are trying to put new jobs in the tube, they say, turn on the faucet. That is fine, and I support a range of policies that try to turn on the faucet to create more jobs in this country. But what about the open drain? As we work on the faucet, what about the drain, when Stanley Furniture says: Well, I know they are out of business, but we are out of here; or Etch A Sketch in Bryan, OH, says: Yeah, we know every kid plays with Etch A Sketch. We know we have always made it in America. But we were told by Walmart that if we couldn’t produce it for $9.99 or less, then we didn’t sell it. If they don’t sell it, we are out of business, so we are closing down our plant and moving to China.

The list goes on and on. The question is, what do we do about all of this? My colleagues—too many of them—say: Let’s do nothing. Let’s act as if nothing is really going on. In fact, let’s come in here and say: You know, we made an agreement in 1962 on some deferral tax issue, and let’s stick with it. One of my colleagues earlier today said: You know, we have to worry about American corporations because they pay some of the highest tax rates in the industrial world. Well, that is a little like Penn and Teller talking about fiscal policy, and only one speaks and the other is silent. It is true that our corporate tax rates, I believe second from the top of the OECD countries, and there is another truth that is that our corporations in America pay an effective tax rate that is right near the bottom. What is the difference? One is a statutory rate—that is what the law says you should pay—and the corporation is how much you pay, which is right near the bottom. Why? Because we have a bunch of gimmicks to allow to that happen. I have described a couple: American banks and other companies buying German sewer systems, German railcar systems, streetcars, buying German city halls for the purpose of sale-leasebacks so they can avoid paying taxes to the United States. It is pretty unbelievable, when you think about it.

The only reason I have mentioned some of the companies over the years when I have talked about this is to give them full credit for what they are trying to do. They and their lobbyists should understand that they want all the benefits America has to offer, but they don’t want to sign up for the responsibilities that exist for Americans, including an American company that wants our corporate tax rate to be as low as possible. And I agree with him. I want American corporations to be profitable. But I will tell you this: If you have two kinds of corporations, and one decides to stay here and manufacture in our country and the other decides to take the jobs and move to a low-wage, lower tax alternative. I want to be helpful to that corporation that stays here, that hires workers here, that keeps the plant open here and is proud to put a made-in-America label on their product.

There is a company called HMC in this country that makes very substantial industrial products. You can see that this is a company everyone admires. Let me tell you what this corporate CEO has said. The CEO of HMC corporation, Robert Smith, said this:

Offshoring in search of higher profits is a mistake because it ignores manufacturing’s larger purpose in U.S. society. Here is something else Mr. Robert Smith said, and I compliment him because you will find precious few who will say it.

It is my belief that every American citizen, not only me, should feel strongly about maintaining one of the most important cultures we have, and that is manufacturing. Now, why is it important? Does anybody think we would have prevailed in the Second World War without the prodigious manufacturing capability of our country? If anybody is interested in that, go read Manchester’s ‘The Glory and the Dream.’ The point is that, in this country, we are about what we did and how we did it in manufacturing war planes and ships and tanks and...
trucks. We had the most unbelievable manufacturing capability in the history of human-kind.

Some say that none of this matters— why should we pick winners and losers? If the marketplace says we manufacture in China or Mexico, if in fact, we actually import more cars from Mexico than we export to the entire rest of the world, so what? Don’t worry, be happy. That is the way the U.S. Chamber of Commerce wants it, and it is what the National Association of Manufacturers wants to have happen, apparently—except I know of companies that belong to both those organizations that have called me and written to me and said that they are dead wrong. How about having a chamber in the U.S. Senate stand up for American manufacturing?

I know that when I talk this way and when I say these things, there are people in this room—and the Washington Post and elsewhere—who will instantly say: Aha, I hear all that nonsense. This is about protectionism. It is about America becoming protectionist and building walls around its country to keep goods out.

Are you kidding me? Are they nuts when they talk about free trade? Last month, we had a $50 billion trade deficit in 1 single month. In a recent year, we had a $750 billion trade deficit. You can make a plausible case that our fiscal policy budget deficit is what we owe to ourselves. We can make that case, and we will pay it back to ourselves. You can’t make that case with a trade deficit. The trade deficit is what we owe others in the world, and we will repay that with a lower standard of living in this country inevitably.

The question is, When will we start to decide that this trade strategy is not working? We are dealing with other countries that are engaged in managed trade, and yet we are saying it doesn’t matter what happens to us. It just doesn’t matter.

We, by the way, spent a century doing what other countries wouldn’t or couldn’t—in most cases, couldn’t—and we lifted up this country. We had unbelievable battles.

The other day, I described the battle on workers’ rights. In the first book I wrote, I described James Fyler. James Fyler was shot 54 times. I said—and I shouldn’t have—that he died of lead poisoning because he was shot 54 times in 1917 in Ludlow, CO. He was shot because he believed that people who worked underground digging for coal ought to work in a safe workplace and ought to be paid a fair wage. And for that, he gave his life.

There are many things we have done over the past century that people have died for to lift up standards in America, and now they are routine—decent wages, fair labor standards, and safe workplaces. We did all that. Other countries, in many cases have not. So now the question is, Is it important for us to lift up others around the world or to allow ourselves to be pushed down in terms of the standards we have created and fought for over a long, long time? To me, the answer is self-evident: Let’s stand up for what this country has done.

I am all for helping others. I want to lift them up, create standards that hopefully can mirror ours. I am not interested at all in having the Huffy Bicycle management team say to the Huffy workers in Ohio: If you can’t compete with China’s wages and China’s workers, you are unemployed, and we don’t care what you think.

Well, the workers of Ohio said: You know what, we just can’t live on 50 cents an hour, and we can’t work 7 days a week, 12 to 14 hours a day. The law won’t allow U.S. companies to hire kids, so the company said: That is tough luck. You need to understand that it is a new world out there. If you can’t compete, you lose.

We are comparing the country to the bottom in terms of standards.

Some say: Well, we can innovate. We are the innovators, yes, that is true. I chair the Congressional-Executive Commission on China, and so I held a hearing last week on counterfeiting and piracy. Do you know what? We innovate, and then we see it stolen. Intellectual property is stolen and produced elsewhere. It is always produced elsewhere. We invented the television set. It was gone, produced elsewhere—computers—largely produced elsewhere. I could go through a whole list.

The question is, What kind of a country do we want to have? For example, when we have free-trade agreements. In fact, let me do this. I want to just mention a free-trade agreement with South Korea, and I could go through all of the free-trade agreements and show how unbelievably ignorant our country has been with respect to its own economic self-interest. But let me give one example.

This chart shows the number of cars in South Korea. In South Korea, 98 percent of the streets and roads are made in South Korea. Now, you might think that is really interesting, that they have an appetite for buying those South Korean-made cars. It is not an appetite; it is what that country decides it wants. They do not want South Koreans to buy foreign cars, so 98 percent of the cars on their streets are South Korean cars.

So let’s talk about our relationship with South Korea, and it is this: Last year, because of the free-trade agreement, we didn’t sell as many South Korean cars in our country. At one point, it was close to 800,000 a year. Last year, the South Koreans put 467,000 cars on ships and shipped them to America to be sold and they got to pay the 5.25 interest. That is 467,000. Does anybody want to guess how many cars we could sell in Korea last year? Six thousand. So 467,000 to 6,000. Why? Because South Korea doesn’t want us to sell American cars in South Korea, and they have dozens of clever devices to stop it.

Our country negotiates a trade agreement with South Korea—guess what, they don’t even mention the bilateral automobile problem, not even a word.

Our country did a bilateral agreement with China, a country with which we had a $200 billion trade deficit. We had a huge deficit with China, biggest in the world. Here is what our country said. We said, on bilateral automobile trade we will do this: When you ship a Chinese car to the United States we will only impose a 2.5 percent tariff on it, but if you ship an American car to be sold in China, you may impose a tariff of 25 percent. You may impose a tariff that is 10 times higher than we would impose in bilateral relations with a country with which we had a $200 billion trade deficit. If that is not defined as ignorance, then I have missed the definition of ignorance.

Why wouldn’t we step up for our economic interest? China, by the way, right now is ratcheting up a very aggressive rate of devaluing the yuan, and they are going to see a lot of Chinese cars on the streets in this country in the years ahead.

But I rest my case. I mentioned automobile. I could mention lots of other issues. I have written books about this. But the fact is the issue before us today is not somebody coming here and saying, in the 1962 agreement on deferral—or another speaker talking about how if you let people go overseas there will be more jobs here at home.

Let me finally say, this issue of deferral is that in some cases these companies know they never have to pay taxes. The reason? Because they defer and never pay foreign corporation taxes. This amendment is only about if you have profits in a foreign subsidiary, from selling back into America, into this marketplace. Some of them can leave to go overseas knowing they will get the advantage of deferral and pay lower taxes than the company that stayed here, but they will get an even better deal. If they hang, we will have somebody in one of these Chambers thumbing their suspenders and shuffling around and harrumphing about maybe what we should do is say all of those people who have money overseas, let’s set them bring it back here and pay a 5.25 percent tax rate. You say: Oh, they would never do that, Oh, they sure did. It is the rest of the people who do not get to pay the 5.25 interest. It is just the biggest interests who closed their American companies and moved their companies overseas and produced overseas, so somebody said American workers. They were told in addition to getting a tax break for doing it, we want to give you something on top of that, the cherry on top of the sundae: If ever you do bring it back, you would never pay at the 5.25 percent; you would never pay at the lowest tax rate that the lowest income American has to pay. What an unbelievable deal.

Let me say, as I started, if ever someone wishes to hear the strongest defense of reducing American jobs to China, listen up because in the next few hours we will hear some more of it. We have already heard some.
They don’t say it quite this way: We think it is nice that if China is not competitive, and their government decided they don’t need to do certain things that we have done to increase standards and lift the American standards, we think it is OK if American jobs are being outsourced because we do not believe we have to long remain a world economic power in manufacturing to really be a world economic power.

This could not be more wrong. This is not a big step. This is the smallest of steps that you would take in the direction of saying: You know something, we are going to do something about a very serious problem. We are trying to work the faucet to put more jobs into this country, into this economy, at a tough time. We are also trying to shut the drain in circumstances where our Tax Code rewards those who now leave our country and move their jobs overseas.

If we cannot do that now, then, in my judgment, we can perhaps never do good public policy that lifts this country’s economy, stands up for American businesses and American workers. I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The majority whip.

Mr. DURBIN. Mr. President, let me thank the Senator from North Dakota. He is retiring. We are going to miss him. He has been a powerful voice in the Senate and no more powerful on any issue than on this one, talking about American jobs and how we are giving them away, literally giving them away. This country time again Senator BYRON DORGAN has come to the floor to explain that our Tax Code rewards American companies that want to ship production overseas. Is that upside down? As Senator DORGAN has said on the floor, and I completely agree with him, we should give American companies that keep good-paying jobs in America. That is what our Tax Code should reward. If they will pay a living wage and good benefits to a worker, and stay in the United States of America, we ought to give them every tax break we can give them—help them in every way we can. Instead, it is upside down. We create incentives for them to move jobs overseas.

We are a few weeks away from an election, and I wish this election would be a simple referendum on the debate we are having on the floor of the Senate right now. The Senate Republican leader has come to the floor and said we should not be talking about this issue. He wants to talk about something else. Others, representing the largest corporations and businesses in America, say that the position being taken by the Democrats to stop the tax breaks for American companies that ship jobs overseas should be defeated. I wish to take this question to American voters. You pick the State, you pick the city, you pick the neighborhood. I want to be there. I will take our position and I invite the Republican Senators and the Chamber of Commerce and whatever other groups happen to believe the other point of view for an active debate. Who in the world believes we should be rewarding corporations in our country for shipping jobs overseas? We know what we are going through here. This recession has cost us millions of American jobs. Under President William Jefferson Clinton, we created 22 million jobs in America. We had the growth of small business at a pace we had never seen. We had minority ownership, woman ownership of business at a pace we had never seen. We saw the growth of new home construction and new home ownership at a record pace. During the course of that 8-year period of time, we generated a surplus in the Federal Treasury—a surplus. We had not done that for a decade or more.

So come the time when President Clinton was leaving office, handing it over to President George W. Bush. This is what he gave him: a growing economy creating jobs, home ownership and business ownership. He said to President George W. Bush: Here is the state of our economy. If I hand it over to you, the national debt because we are generating a surplus, and the entire national debt of America, given from President Clinton to President Bush, was $5 trillion. President Clinton said to President Bush: In addition to a strong economy that is growing, I also want to tell you, I am leaving you a surplus in the Treasury—$120 billion in the next year, more than you need for the expenses of our government. President Clinton said: We have been taking the surplus, incidentally, putting it back into the Social Security trust fund, and that fund will now guarantee every payment with a cost-of-living adjustment throughout the future. Not only that, but he had given the benefit to President Clinton to President Bush. That was when President George W. Bush took office.

What was the state of America 8 years later, when President Bush left office, when he said to President Obama: Now it is your turn. It was a much different picture. The national debt in America was no longer $5 trillion. Eight years later, after President Bush, it was $12 trillion. In 8 years, only this economy, suggesting to the Republicans who supported him more than doubled the national debt. How do you do that? How can you take a debt accumulated from George Washington through President Clinton of $5 trillion and make it $12 trillion in 8 years? You had to work at it.

First, you had to engage in two wars we didn’t pay for and then you did something—President Bush did something no President had ever done in the history of the United States. In the midst of a war he declared tax cuts. Remember that Republican theory: If we give tax cuts, this economy is going to mushroom and grow with jobs? It did not work. In fact, it failed miserably. It added to our national debt, more than doubled our national debt during the Bush Presidency, so that when President Bush left office he handed to President Obama a $12 trillion debt—not $5 trillion, $12 trillion. Instead of leaving us a surplus of $120 billion for the next year, as he had been given when he came to office, he announced it would be a $1.2 trillion deficit in the next year. That is what President Obama inherited. And of those jobs that were melting away—8 million jobs.

The month President Obama was sworn in as President and took his hand off the Bible, we lost 750,000 jobs, a leftover from the Bush economic policies.

Now come the Republicans. They have announced if they are given control of Congress in the next election, they have an idea of where they should go as a Nation. They should go back to the Bush economic policies of declaring tax breaks for the wealthiest people in America. Senator MCCONNELL stated proudly on the Sunday talk shows yesterday that he has hand off the Bible, we lost 750,000 jobs, a leftover from the Bush economic policies.

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I for one think that is totally irresponsible. In the midst of a recession, let us help working families, middle-income families, and let us hand off the Bible, we lost 750,000 jobs, a leftover from the Bush economic policies. That is what the Republican plan for America is, go back to the Bush economic policies of declaring tax breaks for the wealthiest people in America. Senator MCCONNELL stated proudly on the Sunday talk shows yesterday that he had the courage to step up and put a bill before Congress of what he thinks we should do as a Nation when it comes to economic policy. He did. It was historic. It was so historic that Senator MCCONNELL even suggested a tax program that would nearly double the national debt—nearly double it during the same period of time: $4 trillion of new debt for America. How does he do it? On the Republican side, by suggesting we continue to give tax breaks to those in the highest income categories in America.

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recession is over. As far as I am concerned, to use the vernacular: It ain’t over until it’s over, and it ain’t over until we start creating jobs again.

That is what this debate on the floor of the Senate is about, not just tax policy but basically what is our policy when it comes to shipping jobs overseas.

I think American workers are the hardest working, most productive workers in the world. Put them up against any other group and they work for the lowest wages in the world? No. And they should not. We should have a standard of living in this country that we are proud of. But our workers have shown that when paid a living wage, they are productive workers and can compete with anyone.

Yet American companies have decided they want to ship their jobs overseas and see if they can make more money. As far as I am concerned, that is their choice. I think it is a wrong one, a bad choice. But the last thing in the world we ought to do is give them a tax incentive to ship those jobs overseas. We know what has happened to American families here over the last 10 years and longer in America. Thousands of jobs were lost each and every year, in terms of their earning power.

As the Wall Street Journal, which I do not quote very often, put it recently, it was the “Lost Decade for Family Income.” The median income in America fell almost 5 percent between 2000 and 2009.

Meanwhile, Merrill Lynch reported earlier this summer the number of financial millionaires in America rose earlier this summer the number of financial millionaires in America rose by 16 percent. Solid middle-class manufacturing jobs have been disappearing across the country. The AFL-CIO estimates that from 2000 to 2007—that was the period of time during the Bush Presidency—the United States lost 5.5 million manufacturing jobs.

In the 8 years before, under President Clinton, we had created 22 million jobs. Under President Bush, we lost 5.5 million manufacturing jobs. By the end of 2009, the fewest number of Americans were working in manufacturing since before World War II. But it is not just the jobs on the shop floor that disappeared during the Bush administration.

Goldman Sachs estimates between 400,000 and 600,000 professional services and information sector jobs have moved overseas in the past few years. That was during a time when these businesses were raking in record profits and jobs were leaving America.

Then, when the boom turned into a bust, those wizards of Wall Street, those captains of capitalism, those kings of commerce, those malefactors of great wealth experienced a temporary setback. Profits were down, stocks were down, and so compensation was down on Wall Street, for about 15 minutes.

Corporate profits are now surging, the stock market is roaring back, and endless bonuses are raining down on the chosen few, just like the good old days on Wall Street. But what about the rest of hard-working families across America? What about the families who never have made a million bucks? That is the vast majority of the American families who earned the median wage in this country, about $50,000 a year? Those jobs are not coming back fast enough.

The Recovery Act that we passed last year, with the support of three Republican Senators, none of whom would join us in this effort—has at least slowed down the recession and the loss of jobs. It has not produced the turnaround we all want to see. It will take some time. But at least it stopped the recession from becoming even worse.

This recession would not be over yet by anyone’s measure had President Obama taken the advice from the other side of the aisle. They believed we should do nothing—nothing—in the midst of a recession. Senator Byrd, Senator Voinovich, Senator Specter, Senator Sessions and Senator Kyl and Senator Gekas, and I will bet across this Nation, I can use anywhere in the State of Illinois, those automobile manufacturers, at General Motors and Chrysler, are good-paying jobs. We have lost a lot of them. But the good news is, those companies are back. They are profitable. They are selling fewer cars and trucks now, but they are selling them more profitably.

That would never have happened had the Republicans had their way and stopped the President from giving loans necessary to these automobile manufacturers. We would have seen even more companies go overseas, ship them back to this country, and avoid paying your taxes on your profits, something called deferral.

Senator Schumers and many corporations and their friends in Congress defend offshoring tax loopholes that other countries would never allow to stand. That is why I introduced the bill that is going to be voted on today. Senator Dorgan, with colleagues and friends, Senator Harry Reid, the majority leader; Senator Byrd, who has been our leader for years on this issue; Senator Chuck Schumer of New York, and myself.

It is a bill that has three provisions in it. I think they make sense. First, we will make two changes to discourage U.S. companies from giving out pink slips to Americans while they open the doors at their new factories overseas.

We will say to firms: If you want to shut down operations in the United States and move somewhere else—I hope you do not make that decision, but if you make it, we are not going to give you a tax break to make it easier.

We will also say to the firms, if you want to sell your products in this country that you made overseas, we are not going to let you start making those overseas, ship them back to this country, and avoid paying your taxes on your profits, something called deferral.

Second, we will make it more attractive for companies to bring good jobs back home. This is a provision from Senator Schumer of New York, which says to firms: If you bring jobs back from another country, you do not have to pay your share of the payroll taxes on those U.S. workers for 3 years. It is an incentive to bring these jobs back home.

There is nothing radical in this proposal. You would think it would pass by a voice vote. Who in the world would object to ending tax loopholes to send jobs overseas? Who would object to creating tax incentives for bringing jobs from overseas back home?

But that is what this debate is all about. The defenders of these tax loopholes have wasted no time in launching an aggressive lobbying campaign against this bill: The Chamber of Commerce, the National Association of Manufacturers have written in opposition to the bill, and the Republican
leader has already spoken on the floor against even debating this bill. He does not want us to bring it up. The message they send is clear: Corporate profits are more important than American jobs. I could not disagree more. I have watched too many hard-working, middle-class families lose their livelihoods as companies fire American workers and then use the Tax Code to make shifting jobs overseas more profitable.

In August, I was in Rock Falls and Sterling, IL. A woman named Julie came. She had worked at the local national manufacturing company there for 34 years. She was a grandmother, raised her family, and was trying to help with her grandkids. She had just been notified that company was moving overseas.

I said to her: As painful as it is for you to get that pink slip after 34 years of service to that company, I am sorry to tell you that our Tax Code made it easier for the company to say this by making it easier for them to do away with your job.

I ran into other workers around Illinois as well. To add insult to injury, after a lifetime of working for these businesses, these business owners actually go out of their way to make it easy to lay off the workers. They bring in the workers from China and Mexico and ask the American workers to train the foreign worker over here to be trained is their livelihood as companies fire American workers and then use the Tax Code to make shifting jobs overseas more profitable.

Well, I agree. That is why I am on the floor. That is why this bill is on the floor. We have to do something about it. Here is another one. This is a company that once operated in my home State of Illinois. Nippon Steel International. They closed their plants in Freeport, Rock Island, Spring Valley, and Springfield and then sent the jobs to India, China, and Mexico. The Department of Labor certified these workers lost their jobs because the jobs were actually sent overseas. In my hometown of Springfield, the plant closing cost us 120 jobs in the capital city. This was a plant that had been in production since 1938, long before I was born, when it produced the world’s first electric clock for automobiles. The plant also supplied electrical products to support our troops during World War II. In an instant, this piece of American history vanished to Juarez, Mexico.

I received a letter from a victim of this particular example of offshoring good American jobs. Here is what he wrote to me:... stop rewarding Honeywell and other corporations that ship jobs out of the country... They don’t deserve tax money for making the US unemployment rate go up further.

Well, that is exactly what this bill before us wants to stop. Let me show you one other illustration. U.S. multinational companies are actually sending jobs overseas and then bringing them back. As a result of their tax strategy, they pay two-thirds of the U.S. corporate income tax abroad and then bring those jobs back to America. The tax code encourages them to ship jobs overseas. In total, between 1999, at this end of the chart, and 2008, multinational corporations in the United States added 2.4 million jobs overseas, a 30-percent increase.

We will not get by with the false idea brought to this floor today that corporate profits are more important than American jobs. The message they send is clear: Corporate profits are more important than American jobs. I am opposed to this bill.

I believe the bottom line is this: The American Tax Code should be designed to help American companies create good-paying jobs right here in the United States. Our focus ought to be to make sure when people walk in stores across America, they can flip that product over and see made in the USA again. With this vote, Senators will be given a choice where they want the next round of job creation to be. Do they want it in the United States or in China? Middle-class families in this country have been struggling for a long time. They are upset. They want more jobs. They want a Congress that will stand and fight for them. With this vote, they will find out who is going to be on their side.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I rise to express my concern that the Senate may adjourn this week without extending the 2001 and 2003 tax relief provisions which are slated to expire on January 1.

These tax laws include important reforms such as the 10 percent tax rate, relief from the marriage penalty, and the child tax credit. They provide tax relief to nearly 90 percent of all
Maine. If they are not extended, virtually every Maine family and many—indeed, most—of our small businesses will see their taxes increase. If these tax relief provisions are not extended, the typical American family of four with a gross adjusted income of approximately $50,000 will see their taxes increase by about $2,900 next year. That is right. Coupled with tax increases that are included in the new health care reform law, which I opposed, the result would be one of the largest tax increases in the history of our country.

Many economists contend this is the worst possible time to increase taxes because our economy is so fragile. I fully agree. I cannot imagine anyone even contemplating increasing taxes in the midst of a recession. The consequences for small businesses would also be dire. Higher taxes would take critical investment dollars away, leaving less for innovation and expansion, not to mention employee wages and benefits. Raising taxes when the economy is still weak would make it difficult and in some cases impossible for small businesses to start, grow, and create jobs.

Peter Orszag, President Obama’s former OMB Director, recently penned an op-ed for the New York Times in which he argued that this is no time to raise taxes. As he pointed out, the failure to extend existing tax relief would “make an already stagnating job market worse.” He went on to say: Higher taxes would crimp consumer spending, further depressing the already inadequate demand for what firms are capable of producing at full tilt.

I hope President Obama will heed the advice of his former budget director and abandon his plan to raise taxes at this critical time.

It is important to understand that many small businesses are passthrough entities such as sole proprietorships, partnerships, and S corporations. These small businesses must report their earnings on their owner’s individual income tax returns. The Joint Committee on Taxation has estimated that there are some 750,000 passthrough small businesses in the top two tax brackets.

I wish to share with my colleagues examples of a couple small businesses in Maine that would be hurt by this tax increase. They are representative of many others, across the state.

This August, I toured several remarkable businesses in my home state. Their products are diverse and their histories vary greatly, but they share the traits of ingenuity, energy, and a commitment to excellence. The employees and the owners of these small businesses work so hard. An example is D&G Machine Products of Westbrook. Its name and products may not be familiar to the general public, but it is internationally known and respected throughout paper, pulp, and paper, high tech, power, petrochemical, food processing, aerospace, and defense industries. Its precision design machining and fabrication operations put Maine on the cutting edge of innovation. As is so often the case, success started small with this small business. D&G was founded in 1967 by Dave Gushee and Fred Loring in a one-car garage behind Dave’s home. They specialized in producing high-precision tooling and dies for equipment manufacturers in the Portland area and soon added fabrication and welding services. D&G’s founding principles of quality, attention to detail and delivering unsurpassed customer satisfaction paid off.

Within a few years, this young company outgrew the tiny garage and expanded into sophisticated design and engineering services. Today D&G has more than 100,000 square feet of shop space and more than 130 highly skilled and dedicated employees. I met many of them during my tour last month.

Duane Gushee, who now runs the company, continues to be very concerned about the impact higher taxes would have on his company’s ability to compete. Duane pointed out to me that his company does not compete primarily against other Maine firms or even against other U.S. companies. It has to compete against companies all around the world for markets and customers. Without constant innovation and investment in cutting edge technology, D&G will lose its customers, and its employees will lose their jobs. As he said, the tax increase that will hit D&G on January 1 will take money out of its bottom line, money that is needed to upgrade equipment and stay ahead of foreign competition.

Another small business I visited is Pottle’s Transportation, a trucking company headquartered in Bangor. This company was founded in 1972, and it has grown to more than 200 employees with 150 trucks. Pottle’s now provides service throughout the continental United States and Canada, although it concentrates its efforts in the Northeast. It is known for maintaining an impressive on-time delivery record without sacrificing safety. In fact, it has received award after award in recognition of its safety record. Pottle’s is also known for its commitment to the environment. Pottle’s is a member of EPA’s Smartway Program and received the EPA Environmental Merit Award.

The past few years have been very tough on the trucking industry. Barry Pottle, who runs the company, tells me that 1,100 trucking companies around the country have gone under so far this year. His company is in the black right now, but it is a real struggle to generate the capital needed to keep his trucks on the road. Pottle’s needs to buy 25 to 30 trucks every year just to maintain its fleet. New trucks used to cost the company about $100,000, but in the past two years that has gone up by another $25,000. Barry tells me this is due to an excise tax on heavy trucks passed in 2006 and new environmental regulations that require $13,000 in emissions equipment on each new truck. Together, these changes have raised Pottle’s annual cost of doing business by about three-quarters of $1 million. On top of this, Barry has to worry about the tax this company will face if the 2001 and 2003 tax relief laws expire at the end of this year.

Visiting these businesses and others, reading what economists such as Peter Orszag have said, has confirmed my belief that the additional incentive to reverse its present course, which is stifling job growth, discouraging entrepreneurship and risk taking, and hobbling the economic recovery. Americans should be proud of the spirit, the drive, and the determination that has produced small business success stories such as D&G Machine Products and Pottle’s Transportation.

We in Washington must recognize that the policies we adopt or the tax laws we fail to extend have an impact on whether these companies can start up, grow, prosper, and, most of all, create good jobs. So what I have suggested do as a compromise is to extend these two important tax relief laws for another 2 years. That will get us through this recession. It will send a strong signal to the business community.

I cannot tell you how many businesses have told me they are hanging on by a thread and do not dare invest to create much needed jobs because of the uncertainty of what is going to happen on tax policy. We know we need to revamp our Tax Code. We need to make it fairer. We need to make it simpler. But for right now the best thing we could do would be to extend those two laws—the 2001 and 2003 tax reform laws—for an additional 2 years to provide certainty to businesses and to send a strong signal that we get it. We know we should not increase taxes in the midst of a recession.

One of the most startling conversations I had during August was with a small businessman who owns a small community grocery store. He told me he had an opportunity to buy a second store in another rural Maine town. He said he had the financing in place to make the purchase, and he would like to create more jobs and keep this small business going serving the needs of the community.

I said to him: Well, why don’t you just do it? Interest rates are low, so it seems like a good time. Is the uncertainty about what is coming out of Washington keeping you from acting?

He said: You know Senator, the uncertainty is not so much the uncertainty. It is the certainty, the certainty of higher taxes, of more regulation, of having to pay more for health insurance for my employees. It is the certainty of more spending. That is what is discouraging me.

So I hope we could come together right now, and before we go home pass a 2-year extension of the current tax
law, to provide some certainty that we are not going to impose higher taxes on the American people and our small businesses.

U.S. POSTAL SERVICE

Mr. President, in my remaining time, I would like to talk today about the future of the U.S. Postal Service.

The Postal Service is in the midst of a dire financial crisis. The data are grim. In the first three quarters of fiscal year 2010, the Postal Service posted a net loss of $6.9 billion. By the end of this week, when the fiscal year ends, I expect that number may hit $7 billion that the Postal Service will be in the red for this fiscal year alone.

Obviously, faced with this much red ink, the Postal Service needs to do everything possible to increase its revenue and reduce costs. Yet the Postal Service’s plan for regaining its fiscal footing relies too heavily on service cutbacks, relief from funding its known liabilities, and the hope that enormous rate increases will be approved.

I am a huge supporter of the Postal Service, and I want it not only to survive but to thrive. It is a vital American institution that serves our Nation and whose roots are found in our Constitution.

To help the Postal Service identify additional areas for cost reductions, I asked the Postal Service inspector general to review three areas: the benefits the Postal Service pays on behalf of its employees, the Postal Service’s contracting policies—which is an area where Senator CLAIRE McCASKILL, who has been a real leader in procurement reform, joined me—and, third, the Postal Service’s area and district field office structure to see if there were efficiencies that could be realized there.

I must say, I was both dismayed and outraged when I received the results of the IG’s audits.

The IG found stunning evidence of contract mismanagement, ethical lapses, financial waste, and excessive executive perks which, if remedied, could save the Postal Service tens of billions of dollars.

But what we did not know until this review was conducted is that the Postal Service pays 100 percent of the health insurance premiums for 835 of its top executives, an expensive perk that a government agency appears to provide.

This costs the Postal Service an estimated $10 million annually. If the Postal Service brought the contribution for these executives into line with federal agencies, it could save $2.8 million per year on this change alone.

It is unbelievable to me the Postal Service—awash in debt and asking for huge postal rate increases—is paying the full health care premiums for 835 of its executives.

The Postal Service is now paying 79 percent of health insurance contributions for its rank-and-file employees. Yet it needs to reduce health insurance if it is paying 100 percent of the premiums for 835 of its top executives. If the Postal Service brought its benefit contributions in line with other Federal agencies, it could save more than $700 million next year alone.

But that is not all. When Senator McCaskill and I requested that the IG review the Postal Service’s contracting practices, the IG discovered unfair and unethical practices replete with no-bid contracts and examples of apparent employee morale, and has tarnished the Postal Service’s public image.

In one particularly egregious example, an executive received a $260,000 no-bid contract just 2 months after retiring. The purpose? To train his successor.

The findings of these three investigations show that the Postal Service must get more serious about cost cutting. Clearly, there are savings to be had.

Faced with shrinking mail volume and a declining workforce, the Postal Service understands the need to reduce unnecessary costs but its efforts have fallen short.

For example, the Postal Service can realize structural efficiencies. Even after the Postal Service consolidated 1 area office and 6 district offices last year, the structure still includes 8 area offices and 74 district offices, costing approximately $1.5 billion during fiscal year 2009.

To determine if additional efficiencies exist, the inspector general reviewed area and district offices, which handle administrative functions but do not actually handle any mail. In doing so, the IG identified several options for consolidating the area and district field office structure.

One option, which would entail closing area and district offices that have less than the mean mail volume and work hours, could save the Postal Service more than $100 million annually.

Another, more conservative, option could save the Postal Service some $33.6 million annually by closing district offices that are within 50 miles of one another.

Management at headquarters reported that last year’s consolidations went smoothly, with no negative impact on operations. That result clearly shows that the Postal Service should continue its strategic efforts to consolidate.

After receiving the results of these three IG investigations last week, I wrote a letter to the Postmaster General, urging him to implement the inspector general’s recommendations immediately.

In my letter, I emphasized that the IG reports had found concrete ways for the Postal Service to cut sizeable expenses. Reducing costs is a far better solution than reducing service and increasing rates remedies that run the risk of driving away even more customers.

Additionally, the Postal Service should increase cross-craft training and collaborate with high-volume customers to increase mail volume through initiatives like the “Summer Sale.”

It also should work with OMB and OPM to access the more than $50 billion which the Postal Regulatory Commission believes USP has overpaid into the Civil Service Retirement System fund.

I have been pressing the Office of Personnel Management to change its method for calculating the Postal Service payments into the CSRS pension fund consistent with the 2006 Postal Reform law. The reform law, however, stubbornly refuses to change its methodology or to even admit that the 2006 Postal law permits them to do so.

I have continued to stress the importance of this change to both OPM and the administration. Clearly, the Postal Service’s refund of a more than $50 billion overpayment would greatly aid its current financial condition.

In sum, the Postal Service must devote more energy and adapt a laser focus to reducing costs. This includes those identified in the recent IG reports. It also must develop customer-first programs that can enhance revenue, increase volume, and earn loyalty.

The Postal Service is at a crossroads. It must choose the correct path. It must take steps toward a bright future that allows it to grow and thrive. It must reject the path of service reductions and ongoing postal rate hikes, which will only alienate customers.

The Postal Service must reinvent itself by embracing change that will revitalize its business model and enable it to attract and keep customers. These actions are within its reach and will
help protect and preserve this vital American institution.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I wish to introduce legislation that is pending, the Creating American Jobs and Ending Offshoring Act, but also more generally on the issue of the loss of jobs, particularly in the energy sector, as we go forward.

When BP Solar closed its Frederick, MD, plant earlier this year, 320 Americans saw their jobs sent overseas to China and India. Bloomberg said the announcement "signalled the exodus of US renewable-energy jobs," which it obviously did. In fact, BP Solar's move followed General Electric's closing of its Newark, DE, solar panel plant, Ev- ergreen Solar's shifting of hundreds of jobs from Danvers, MA, to China, and Gamesa's shutting down of its wind turbine factory in western Pennsylvania.

Given the broad enthusiasm for creating clean energy jobs, few seem to notice this alarming trend. But we cannot afford to sit idly by as clean energy jobs shift from the United States to low-wage countries.

To begin, let me dispel the myth that the United States cannot lead in producing clean energy technology. In fact, we once were the leader. As recently as 1997, we had a "green trade" surplus of $14.4 billion. By 2008, that surplus had shrunk to a deficit of nearly $8.9 billion. The reversal was triggered largely by a steep fall-off in domestic renewable energy technology manufacturing. For instance, only a decade ago, U.S. solar cell manufacturers controlled 30 percent of the world market. By 2008, that had been reduced to 6 percent. Meanwhile, Chinese production has grown from nonexistent in 1999 to 32 percent of the world total in 2008. Similarly, European manufacturers now control more than 55 percent of the global wind component market. Today, only 1 of the top 10 manufacturers is an American firm.

What happened to bring about these changes? Simply put, other countries enacted policies to attract investment, both "push" incentives such as tax incentives and direct subsidies to attract manufacturers, and "pull" incentives to create domestic demand. As a result of the incentives they enacted, China displaced the United States last year as the world's largest importer of clean energy investment. Its total investment was nearly twice that of the United States. Measured as a share of gross domestic product, domestic clean energy investment places us—the United States—in the bottom half of the G20 countries. If the trend continues, we will fall further behind.

Over the next 5 years, government investment in energy and South Korea is expected to outstrip U.S. Government investment by 3 to 1. This public investment will drive trilions in private sector investment within those same countries.

With global investments expected to reach $2.3 trillion by 2020, we cannot afford to delay measures that will ensure U.S. leadership in this area. We must look to create jobs across the clean energy value chain—from engineering to installation to sales. In particular, we must focus on manufacturing jobs, because failing to grow a domestic clean tech manufacturing base will result in trading our imported oil dependency for an imported clean energy component dependency. To prevent this from happening, we must send the appropriate market signal by enacting the renewable energy standard I have introduced along with Senator BROWNBACK. Expanding demand for clean energy is essential to raising demand for domestically produced goods. For instance, every gigawatt of installed wind capacity—that is roughly enough to power all the homes in Atlanta—is estimated to create 4,300 jobs, more than three-fourths in manufactur- ing. European firms that now dominate U.S. wind turbine sales developed technical and marketing expertise by serving their own home markets first. Expanding domestic demand will enable American firms to catch up.

As I indicated, Senator BROWNBACK and I have introduced this legislation and we hope very much that in the short session of the Congress after the election, that can be brought up and dealt with in a positive way.

But a demand for clean energy cannot suffice. We also need to focus on the supply side to ensure that policies spurring clean energy demand will not only be filled by imports from overseas. So the second call is to expand the Advanced Energy Project, or section 48C tax credit that we created as part of the Recovery Act. That credit allows qualifying companies to claim a credit for up to 30 percent of the cost of creating, expanding, or reequipping facilities to manufacture clean energy components.

The Recovery Act authorized the Departments of Energy and the Treasury to award $2.3 billion in tax credits. There are many success stories about funding that was way oversubscribed. The government received $10 billion in applications for the $2.3 billion in tax credits that were available under the Recovery Act. In December I joined with Senators HATCH, STABENOW, and LIEBERMAN to introduce the Clean Technology Manufacturing Leadership Act. That bill would add another $2.5 billion in tax credit allocation authority. President Obama has called for $5 billion in additional funds to be made available this way.

The third of the initiatives I wish to focus on today is the need to address financing challenges that companies face in establishing onshore clean energy manufacturing facilities. Five years ago, Congress created a loan guarantee program at the Department of Energy. But from its start, the program has faced bureaucratic delays. So far, there are only 14 loan guarantees that have been issued, all of them in the past 12 months and all last year. The Recovery Act promised to add $6 billion to the program which would leverage about $60 billion in new loans for clean energy projects. Unfortunately, this Congress has seen fit to turn this financial assistance into a piggybank and withdraw $3.5 billion as offsets for unrelated purposes. We need to restore that funding.

We need to restore as well the loan guarantee program. The Energy Committee recently reported a bill that would create a robust successor to that program called the Clean Energy Deployment Administration, or CEDA, and I urge the Congress to enact that legislation as well.

Alongside these three measures to retain and create clean energy manufacturing jobs, we also need to pass two important additional bipartisan packages. The Energy Committee has unanimously supported a bill to add the largest oil spill in our Nation's history. The American people are waiting for us to enact it. We should do so as soon as possible. The Tax Code is an increasingly important mechanism for delivering clean energy incentives. In fact, more than three in five Federal dollars spent on energy are delivered through tax provisions.

I will return to the floor later this week to discuss a bipartisan package of incentives for clean, renewable energy and energy efficiency and I hope that passage will not be delayed by the Congress before it adjourns as well.

Some have said the United States cannot regain its footing in the clean energy manufacturing arena. Those who doubt the potential of this sector think that clean energy jobs can flow only to low-wage countries such as China. We need only look at what has happened in Germany where employment in the clean energy industry is second only to the nation's strong automotive industry.

We are deservedly proud of our Nation's tradition as a leader in research
and development, in innovation, and in venture-backed investing. With the right policies, we can guarantee that clean technology investment will come to our shores. Let’s enact the job-creating legislation pending in the Senate today and then move swiftly to enact legislation for a new electric-tricity standard and a Clean Energy Employment Administration, and expanding the section 48C credit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is what we are here to talk about once again: making it in America.

On Friday, the Department of Labor made available more than $300,000 to assist 183 Iowans laid off from the ThermoFisher Scientific plant in Dubuque. All of the workers were certified as eligible for trade adjustment assistance. This grant was designed to help unemployed workers retrain as they attempt to find new work in an economy that is already desperately short of new jobs.

I am certainly grateful for the temporary assistance from the Federal Government, as I am sure are the unemployed workers and their families. But what we need to do is get the economy moving strong with this picture: Once again, we find ourselves lending modest assistance to American workers whose jobs have been eliminated—whose economic security has been destroyed—because U.S. manufacturing is being drained away by foreign competitors.

We know that manufacturing jobs, which are generally high paying, have been particularly hard hit in this economic downturn.

In my State of Iowa, there has been a steady, relentless drumbeat of layoffs and plant closings as companies from Electrolux to Cummins shut down their plants and move to other countries—including Mexico and China and other countries—that offer low wages, lower workplace safety standards, and only minimal environmental oversight. This is happening despite the fact that American workers, while paid more, tend to be far more efficient and productive.

Adding insult to injury, these newly unemployed American workers must reckon with the fact that the United States Tax Code actually rewards companies for sending their jobs overseas.

That is right. Most Americans don’t know that the Tax Code actually incentivizes companies that shut down operations and kill jobs in the United States.

This betrayal of American workers is outrageous on its face. And with the official unemployment rate stuck near 10 percent—when we adjust for the underemployment actually rate is closer to 18 percent—it is simply intolerable.

That is why I have come to the floor to speak in strong support of the Creating American Jobs and Ending Offshoring Act of 2010. This bill would take three urgent steps to reduce and begin to reverse the bleeding of jobs from America.

First, the bill would end subsidies for plant closing costs. That is right. There are subsidies if you close a plant. It would prohibit a firm from taking any deduction, loss, or credit for costs associated with reducing or ending the operations of a plant in the United States and starting or expanding a similar trade or business overseas. Let me note that the bill would not apply to any severance payments or costs associated with placement services employees. This retraining provided to those who lose their jobs as a result of the offshoring.

Secondly, the bill would end the tax breaks for runaway plants, for companies that reduce or close a trade or business in the United States and start or expand a similar business overseas for the purpose of importing their products back into the United States. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign companies or subsidiaries until that income is brought back to the United States. This is known as deferral. Deferral has the effect of putting these firms at a competitive advantage over U.S. firms that have stayed here and that hire U.S. workers to make goods for U.S. States.

Imagine that. So you take your company and ship it overseas. All of the money that plant makes over there, you don’t have to pay taxes on it. You keep your money there and keep expanding your plant, or make another plant in another country that is low wage and has low environmental oversight.

What an advantage they have over good companies, good businesses in America that want to stay here. So we have to close that loophole.

The third loophole we have to close is the encouragement businesses get right now to create jobs that go overseas. We have to create incentives for businesses that expand here. This bill would provide businesses with a 2-year break from paying the equivalent of the employer’s share of Social Security payroll tax on wages paid to new U.S. employees performing services in the United States that is used to be performed overseas.

In other words, if they have a plant and a business here and can bring jobs back to the United States, guess what. For 2 years, they get a tax break; they don’t have to pay the employer’s share of the payroll tax. We will pick it up—the Federal Government, the taxpayers—because those jobs will come back here; people will be hired; and they will be paying into this economy.

Mr. President, I salute the Senator from Illinois, Senator DURBIN, for introducing this bill. I also salute the senior Senator from North Dakota, Senator DORGAN, who has been such an outspoken champion of American manufacturing. He has fought long and hard and fought the provisions in the Tax Code that have the perverse effect of actually encouraging and rewarding U.S. companies that ship jobs overseas.

I also commend the Senator from Ohio, SHEEROD BROWN, who also is a tremendous champion of the focus and attention to try to do everything we can possibly do to keep our jobs here. Ohio has especially been hard hit. If we look at all of the statistics, Ohio has been hit with layoffs over the last decade, during the last 8 years of the Bush administration, from all of the jobs that left Ohio and were shipped overseas.

Let me give an example of the destruction that is caused by this. Almost exactly 1 year ago, workers at the Cummins Filtration plant in Lake Mills, IA, a small community, were gathered together on the shop floor. Company officials, surrounded by a phalanx of security officials, announced that some 400 jobs would be moved to Cummins manufacturing plants in Mexico.

This announcement came out of the blue. The employees immediately went into a free-falling spiral of anxiety over their new status—victims of the outsourcing of their jobs to Mexico. Thirty-five married couples worked at the plant. So many families lost two jobs in one fell swoop. In one case, the couple worked for Cummins for 30 years. As one plant employee said:

This is going to be terrible for people, terrible for this town. It’s going to hurt everybody, the gas station, the grocery store.

Mr. President, this is the kind of personal tragedy and devastation that we are seeing in thousands of towns all across America as companies lay off employees and/or shut down operations and move overseas.

Since 2001, some 42,000 American factories have closed their doors. Roughly three-fourths of those employed over 500 people. Not 42,000 jobs, Mr. President, but 42,000 American factories closed their doors since 2001.

The manufacturing sector lost 1.3 million workers in 2009 alone, continuing the disturbing loss of more than 5 million U.S. manufacturing jobs from 2001 to 2009. That is right, 5 million manufacturing jobs lost.

It is bad enough this is happening, but what is absolutely intolerable is that our Tax Code actually encourages companies to kill these U.S. jobs and take their operations overseas.

Senator DORGAN, many times, has cited the example of Levi’s and Huffy bicycles.

What can be more American than Levi? They moved their production to Mexico and to other parts of the world. They don’t make any Levis here anymore. They contract with foreign companies who make Levis for the Levi Company.

As Senator DORGAN said about Huffy bicycles in Ohio—Senator BROWN’s home State—workers there made $11 an hour making those bicycles. But they got fired, laid off, and Huffy bikes are made overseas at a profit of $1 above an hour. The Huffy Corporation reaped millions of dollars in tax breaks as a result of this offshoring.

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CONGRESSIONAL RECORD — SENATE
Then, as this chart shows, is Fruit of the Loom, another signature U.S. company that has outsourced many thousands of jobs over the last decade. The company has closed plants in Kentucky, Mississippi, Louisiana, Texas, and elsewhere, and shipped those jobs to Asia, and Morocco, and the U.S. Tax Code has handsomely rewarded Fruit of the Loom for doing so.

Mr. President, these are the Fruit of the Loom guys on the chart, which shows them leaving for Mexico, and they took 3,200 U.S. jobs with them.

It is time to end this outrage, with the U.S. Tax Code actually encouraging companies to lay off employees and ship operations overseas, even as we struggle to recover from the worst economic downturn since the Great Depression.

The way to grow our economy and drive our recovery is to create jobs in America and remove policies that encourage and reward American companies doing jobs overseas. We built the middle class by building things in America. We can do it again by giving companies incentives to bring jobs back to America and create new ones here as well.

I encourage my colleagues to support the Creating Jobs and Ending Offshoring Act of 2010.

I assume our time has expired.

The PRESIDING OFFICER. There is 7½ minutes remaining.

Mr. HARKIN. Mr. President, I will take a couple more minutes.

First of all, I don’t know how anybody can argue with this bill. It just says, one, we are going to end subsidies for plants that close. In other words, right now, a company could close a plant here and move it overseas. All of the costs of closing down that plant and ending that operation would take a deduction—or they could take losses or credit against taxes for the cost of closing the plant here. If they shipped it overseas—if a plant goes belly up, and they can't make it anymore, or whatever they have made is not being purchased anymore, that is one thing. I can see providing for credits and losses and deductions for that. But if they are closing it down and starting or expanding a similar trade or business overseas, they should not get any tax benefits whatsoever. That is what this bill does; it ends that loophole.

It ends the tax break for runaway plants when they expand their businesses overseas. Why should we allow companies that, as I say, are not good citizens—they take their plant overseas and the money they make over there—first of all, they don't have the same environmental protections. They have terrible working conditions and low wages. But they take all those profits—and a company that is here making the same products in America pays workers more, pays into Social Security, has environmental concerns to deal with—but this plant in America has to pay taxes on their earnings. The company over in China, making the same product, can defer those taxes, as long as they don't bring the money back here.

You might say, as long as they don't bring the money back here, why should they not get a deferral? Because they can take those profits and expand operations in that country or other countries, further putting at a disadvantage the good companies that stay in America. We ought to end that loophole.

Third, this bill incentivizes companies to repatriate jobs into this country—brings jobs back into this country. They get a 2-year break from paying their company’s share of Social Security taxes. That is a good tax break for companies coming back into America.

For those three reasons, I don’t see how anybody can argue with us. I am not here to say we have to stop every plant and put laws into effect to stop them, we are going overseas. That is not what I am saying. I am saying don't have the Federal Government subsidize that. That is what we are doing with our trade laws. I am not going to get into that now. That is for another debate, maybe for the year or next year about redoing our trade laws and what we are doing in the WTO.

Why does China get away with undervaluing their currency, which makes their imports into this country cheaper, and we do nothing about it? At least Japan did something—raised tariffs to equalize the difference between what the currency could be worth on the open market. That is what we ought to look at in this country. China should not be allowed to get by with this undercutting of their currency just to make their exports to this country cheaper because it is taking more American jobs away.

Again, that is part of this bill.

That is a discussion we need to have, and we need to have it soon in order to, again, have us take a more or a stronger position in world trade than we have been taking in the last couple of decades.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNES. Mr. President, I rise today to discuss what I consider to be a rather disturbing trend on the floor of the Senate. I am observing more and more the majority bringing legislation to the floor for political reasons, knowing it doesn’t have enough votes to pass.

Rather than working to address our economic woes in any kind of meaningful way, we instead find ourselves voting on what I would describe as ballot box topics designed to gain favor with the workers' wallets, where they could better spend or better decide how to spend those dollars.

What we have here is just a narrow element—only for those businesses that replace a foreign worker with an
American worker. How many jobs will that really create? When faced with a tsunami of uncertainties, ranging from increased taxes to a hostile business attitude in this administration—a downright antibusiness attitude—will a business really choose to hire because of the 24-month supposed tax holiday? There are some business groups out there that have answered that question for us. Let me quote from the chamber of commerce. They said this:

The concept of economic growth is not a zero-sum game. If you are competing in another country with a domestic job does not stimulate economic growth or enhance the competitiveness of American worldwide companies.

At a time when we have a 9.6-percent unemployment rate and an underemployment rate in the double digits, do we really want to enact legislation that will set back job creators and threaten our ability to compete in this world? Why does it leave out mom-and-pop, Main Street businesses? Why are they left out in the cold? Even if these small businesses wanted to hire to get a 2-year payroll tax holiday, they could not because they do not have any foreign earnings, no overseas markets, no foreign-generated income to hire them less competitive in the global marketplace and jeopardizing U.S. job creation.

Let me repeat the last piece of that: "... making them less competitive in the global marketplace and jeopardizing U.S. job creation." This is not a jobs bill at all. It is a political punishment bill.

Once again, the majority has sought to villainize a piece of our economy hoping that somehow by villainizing those jobs really choose to hire because of this payroll tax holiday before us today is designed to only help the biggest of the big multinational conglomerates. Talk about standing up for the little guy. Are you kidding me? It tells Joe's Garage or Smith's Tool Shop: You are just a cog in the wheel. I love that. Let me just tell you the fact that 65 percent of all new jobs are created by those small businesses—businesses such as those on Main Street in Nebraska—excluding them from hiring tax incentives simply defies any rational logic whatsoever. But that is, unfortunately, what this legislation does.

Let's keep examining the so-called jobs bill.

The next part of the legislation is a provision that would immediately tax the earnings of foreign subsidiaries. In other words, the legislation would repeal the so-called deferral rule. Currently, firms are able to defer taxation on their foreign-generated income until it is brought back to the United States. At a time of sluggish economic growth, enacting policies that will threaten U.S. business is downright unwise, and it is reckless economic policy. Repealing the deferral rule will only drive the ability of U.S. companies to compete against other companies around the world.

The United States imposes a 35-percent corporate tax rate. That is already one of the highest in the world. In fact, we are behind only Japan in how aggressively we tax our corporate businesses. Only Japan has a higher tax rate. The average for the other G7 countries is just under 29 percent, while the group of industrialized nations that make up OECD average only 19.5 percent. Right now in the world, we are at 35 percent. We are punishing the job creators already. How can we expect these companies to compete with their foreign counterparts when the foreign companies have such a lower tax burden, when their countries say: Look, we want these companies to be successful and have kept the tax burden low. How do our companies compete with that? The simple answer is, they simply can't. If we put back that job creation, we would be lowering our corporate rate, not trying to punish our multinational firms that are trying to compete in the international marketplace.

Once again, do not believe me. Go to people who are in the midst of this. The National Association of Manufacturers said of the bill:

Manufacturers are concerned that the bill's proposed tax increases would impose new costs on American manufacturers, making them less competitive in the global marketplace and jeopardizing U.S. job creation.

But this bill also misses a very key point. A big part of the reason companies are not hiring is because of the vicious onslaught of bad policy Washington is throwing at them. I talk with businesses in our State. They are paralyzed with fear over what Washington will do next.

Let me share a story. I had a business roundtable in an area of Nebraska, Sarpy County, NE. A group of small businesspeople were sitting there. I was asking them: What can be done to help your businesses grow so you can hire people?

There was one lady there, and she said: MIKE, I have a business franchise in both Lincoln and Omaha. Our business in Omaha actually is not too bad. But I have looked at this health care bill. I have gathered information on this roll tax holiday, and I have come to the conclusion that if I grow my business beyond 50 employees, which is right where I am today, I get tangled up in this mess. I do not want anything to do with it, so I am not hiring.

This is what I am hearing all across our State. And this payroll tax holiday for those who bring back workers to the United States is not enough compensation for all of the other looming tax increases businesses are facing. It is not going to offset the problems that have been caused by this onslaught of higher taxes and regulation.

I am so disappointed that in these last days before we recess, a decision was made to take up such a flawed piece of legislation. Yet what is going to happen is this messaging attempt will take up our time. We will recess until after the elections, and we will miss the opportunity to take an important vote on what is headed to be the biggest tax increase in a nation's history. A vote on preventing the looming tax increases would have given individuals and some businesses some certainty about the future. We cannot expect any meaningful economic recovery to occur until businesses are provided with some certainty about what is happening in Washington.

Every day, I get calls from constituents. Every time I am home in Nebraska, people are saying: MIKE, please tell me what is going to happen on these tax issues. Tell me what to expect on January 1.

I can tell you that it is no consolation to them for me to say: We are debating a bill that everybody knows is not going to pass. This is how we are using our time between now and a recess that will extend well into November.

It does not make any sense whatsoever. No tax credit will prevent the punitive measures that are headed toward American businesses. Are we really going to go to work tomorrow and say we are using our time between now and a recess that will extend well into November.

The National Federation of Independent Business has described it this way:

Uncertainty about the economy and looming tax hikes has kept this sector from hiring new workers, reducing our economic recovery and slow to nonexistent job growth.

The NFIB went on to say:

Congress can take an important step to address the uncertainty by passing legislation and extending all of the expiring tax rates. No small business owner should face higher taxes.

I could not agree more.

I go across my State—and I doubt it is any different from any other State—Americans are struggling to meet this month's payroll. They do not need legislation designed only to gain political points at the polls. They want us to come here, to have a debate about what is going to happen on January 1 of next year, and that is the largest tax increase in our Nation’s history. These good people deserve real solutions, not populist slogans meant to fool the electorate and somehow gain favor between now and November.

I know what is happening out there, and if we all think about it, what we are seeing is the American people are not fooled. They simply will not be fooled. They know that this latest bill supposedly meant to create jobs will not do a darn thing to address their concerns—looming tax increases, mounds of new regulations, and new 1999 paperwork mandates.

If I were going to design the perfect strategy for economic growth in our country, here is what I would say the people of Nebraska are telling me. They are saying: Extend all of the 2001 and 2003 tax reductions. Why? Because
that is what makes the most sense for our economy. They see this massive tax increase out there, and they are asking themselves: How could you let that happen in these economic times?

Second, they would say: Repeal the 1099 tax mandate—a vote that we made just a few weeks ago. As I indicated earlier, there was significant public pressure on this issue recently, as you know, Mr. President, on an amendment I offered. That tax increase is being protested by individuals and businesses. It is simply taking a voice out of our economy. It is taking a voice out of the people who are sick and tired of what is happening. It is taking a voice out of the American people with endless regulations and with endless tax increases.

At the end of this week, every Member of this body will be forced to go home and say: In a week where we could have made a difference and given you certainty and extended the 2001-2003 tax credits, it wasn’t done. Instead—instead—during this time, politics was played and nothing happened; just like we know today that politics is being played for the 2010 elections.

I think it is an unfortunate situation. I think we can do better for the American people than what is being displayed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. STABENOW. 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.

Ms. STABENOW. Mr. President, this evening, we will be discussing—debating—a very important principle: that is, whether we are going to focus on making things in America and whether we are going to stop the incentives that ship our jobs overseas. This debate is all about populism, instead of what is all about gaining favor between now and November.

But I will say again: The American people have figured this out. They get it, they understand it, and they are watching us very closely. The bill we are debating is nothing more than an election year stunt, when we could be doing things that have an economy, unless we make things and grow things and add value to them. I am very proud to say in

business creation literally to the extent where a job creator says to me: I can’t grow this business beyond 50 employees because of what you have done to us in this health care bill.

It is a remarkable day in our Nation’s history when the people of this great Nation are asking their elected representatives to come back here and fight against their government, but that is exactly what is happening. They are asking us to stand for them and to say what is going on here: Enough! Enough! Enough! We have finished with the American people with endless regulations and with endless tax increases.

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So enforcing our trade laws, stopping currency manipulation, stopping countries from stealing our patents, from artificially blocking us from going in and selling to them, this is very important. But we also know there are policies in place that have put the wrong incentives in place for the wrong incentives. That is what the bill we will be voting on tomorrow will eliminate. We have two areas where we want to take away incentives right now to shift jobs overseas and we want to put in place incentives to bring jobs back—three provisions in our bill.

There is an incentive to create American jobs by allowing a company that, after the passage of the bill, brings back a job—hopefully a lot of jobs—to the United States sometime in the next 3 years. They would get a holiday of the payroll tax for 2 years, for 24 months, if they are bringing jobs back and it is clear that job was coming back from overseas. If they are stopping the incentives to ship jobs overseas, we want to create an incentive. We also want to take away those things that have encouraged jobs being shipped overseas. The second provision would deny business deductions of any costs associated with moving jobs overseas.

The third provision would end corporate tax deferral of overseas income. Why in the world American taxpayers would want to subsidize essential shipping jobs overseas through our Tax Code is beyond me. That is what we want to change. Someone should not be writing off the costs of moving the jobs overseas and setting up shop somewhere else. This legislation would take away that tax deduction, that business deduction for writing off those costs you use to ship jobs overseas.

I have seen the devastation in communities around Michigan from efforts on our part to close down places where a business will close up shop and will take jobs overseas. In many cases it is over the river to Canada or down to Mexico. I remember Electrolux, in Greenville, MI—it was 2,700 jobs in a community of 8,000 people—making refrigerators. They were productive, doing a great job. There was a second shift, in some cases a third shift. But they decided a few years ago to close up shop, 2,700 jobs lost, and they went to Mexico—where they could pay $1.50 an hour, by the way.

We have a Tax Code that would allow Electrolux to write off the business expenses to take those 2,700 jobs down to Mexico. This legislation stops that. It would provide incentives for bringing jobs back. We cannot have an economy unless we are making things. That is the second part of what we are doing. We want to stop jobs being shipped overseas, but we want to make it in America. We want to make things in America again.

We can’t have an economy, unless we make things and grow things and add value to them. I am very proud to say in
Michigan that is what we do: We make things, we grow things, we add value to things. If we focus on making things in America again, we will not only bring jobs back, we will bring the middle class back because, as we have learned painfully, after seeing the last decade, a focus on making things instead of buying things is made, that if we do not have manufacturing in this country and if we are not focused on where things are made, we will lose good-paying middle-class jobs. We have lost many of them.

In 2001 until 2006 we lost 4.7 million manufacturing jobs in America. Nearly 27 percent of the jobs in manufacturing were lost during the last administration, from 2001 to 2009. We want to turn that around. In fact, we have been focused on turning that around. We have been focused in a number of ways to grow manufacturing, for example, in the Recovery Act with the Advanced Manufacturing Tax Credit—48C it is dubbed—which has brought many of manufacturing businesses to Michigan and others around the country, focusing on other kinds of clean energy manufacturing, to make things in America. We have begun to see the manufacturing numbers go up—way too slowly, but at one of the ways to make sure it moves more quickly is if we close the incentives to ship the jobs overseas. If we close those incentives for shipping jobs overseas and, instead, put the right kinds of incentives in place, we will bring jobs back and we will have to work together with businesses to achieve that to be able to do that.

One example I was pleased to author in the Energy bill passed a couple of years ago is a retooling loan program to help automakers and others manufacturing to be able to retool older plants and to be able to bring jobs back. We have seen a wonderful case of that with Ford Motor Company bringing the Ford Focus production back from Mexico to a plant in Wayne, MI, partnering with the Federal Government on the right kind of incentives to retool a plant—from a truck plant down to an energy-efficient, fuel-efficient car plant. Those are the kinds of incentives we need to have in place, not incentives that say if you ship jobs overseas you can write off the costs on your taxes.

We know the kinds of incentives that can work. We have seen them work. We have to have a much more aggressive policy about making things in America and making sure that we are closing the loopholes that have stopped the efforts to take our jobs overseas.

There is so much we need to do. I feel a tremendous sense of urgency about this issue of making things in America because of my great State, where we make not only automobiles, we make appliances, we make medical equipment—you name it and somebody in Michigan is probably making parts for it.

We have created a whole generation and a middle class because of our ability to make things in America. Then we see what has happened, where we have seen the pressures coming in an international marketplace with other countries rushing to have a manufacturing policy—China, Korea, India, Germany, of course Japan—rushing to have a manufacturing economy and doing whatever they can, cutting corners, not following the law, stealing patents, manipulating currency, and putting up trade barriers.

We are in a marketplace where we have to fight for our businesses and our workers, to keep the opportunities to make things here in America, not fold up and assume that your jobs are going to be lost and, in fact, incentivize that by tax policy.

The legislation we have in front of us is one of the most important, fundamental pieces of legislation that we have voted on this year, in terms of jobs and turning the incentives around. We want to make things in America and we want to stop shipping our jobs overseas. We want to make sure that the companies bring jobs back by giving them a 2-year payroll holiday for jobs that are coming back from other countries and putting people to work. We want to take away the ability to defer taxes on businesses that are overseas and to use business deductions from the American tax system to be able to deduct from American taxes those costs that are being expended to ship jobs overseas.

This is a tax break that is focused on fighting for America, on fighting for good-paying jobs and for workers and for businesses that have done the right thing. People who do nothing more than get up and go to work in the morning are proud of their skills. We have the best, most skilled workforce, the best engineers. We create the innovation in this country. But our tax policies encourage that to go overseas to create jobs. That is what this legislation is about. This is about fighting for America, fighting for our American dream. It is about making sure that our priority is to make things in America again and to stop the policies that are shipping our jobs overseas.

I see my colleague from California here, who is such a champion on this issue, who has spoken out so many times on behalf of her State of California. We share many things, actually. We have been focused in a number of ways to make sure that when we give tax breaks to companies that ship jobs overseas, it actually winds up creating more jobs in America. I wonder if they have met some of the people I met, who actually went to other countries to train their replacements. They went to other countries to train their replacements.

We just passed a very important small business jobs bill. I saw the President today sign into law. It is going to create jobs right here in America because, guess what, it is setting up a lending system, a deficit-neutral fund through our community banks. That $30 billion deficit neutral fund will be leveraged a billion and we will see a half million jobs created through the small business community. They need access to capital.

This is a good step. We cannot stop there. We have to do more. That is why, as we wind down before the election, we are trying to say to our colleagues: Please, all join together on the way out of this particular session. We will be back after the election. But on the way out the door now, let’s do something for the American workers, for American families.

For too long the Tax Code has rewarded companies that ship jobs overseas. It seems to me it is common sense. You can make it complex. Some of my colleagues have made it complex. But when somebody tells you something like this—it is complicated—challenge them, because most ideas are not complicated. People who support this, it is complicated. You create jobs here in America, guess what, we are going to give you a tax break. Not only that, we are going to give you a tax holiday, for the workers that you employ right here in America. We are talking to say if you move your jobs overseas you get big tax break and big tax write-offs. It is pretty simple. That is it. People who oppose this, I believe, simply do not believe it is important to create jobs here in America. I want to see the words “Made in America” again.

Manufacturing is an essential part of our economy. We have to do all we can...
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to promote a strong manufacturing base here at home. In my State of California, over 1.2 million Californians work in the manufacturing sector, and the products these men and women make contribute $180 billion to our State economy.

But in recent years, manufacturing businesses have left the United States and they have taken their production lines to countries such as China, India, Mexico, and hundreds of those jobs left permanently.

The number of U.S. companies with foreign manufacturing affiliates increased 14 percent in the last 20 years, and it continues even during the recession. I think it is important to make a distinction between companies that sell abroad—all right, we want that—and companies that close down manufacturing here and then manufacture abroad and then reimport those products back to America.

That is what we are talking about. We want our companies to get out there, make products here and sell them abroad. I think that is very important, and I want to reward that. I do not want to reward people who close down their manufacturing here and open a new operation abroad, produce their product, and then bring it back to America.

That is what we have been rewarding. A Duke University study tells us the number of companies with a corporate outsourcing strategy in place more than doubled in the last 3 years. A lot of us know Senator Dorgan has been a real champion on this issue of ending tax breaks for companies that shift jobs overseas, and I want to tell you: Oh, but you ship these jobs overseas, only to resell their products made by foreign workers, moving production abroad, only to benefit foreign producers, and then bring it back to America in America. The bill promotes jobs creation here at home. It includes, as I said, a 2-year payroll tax holiday for U.S. companies that have American workers to replace foreign employees, creating incentives for companies to bring jobs back home and invest in America’s economy—in America’s economy.

I am going to tell you—a lot of people say: I am a jobs creator, I want them to mean, I am creating jobs in America, not in India, not in China, not in Malaysia but right here at home. I want to see those words “made in America” again. That is what this debate is about. I want to rebuild our manufacturing base, creating jobs here at home by taking advantage of American innovation to help lead us toward new technology, including clean energy technology.

Jobs are going green. Everyone in the world wants clean energy. We need to create those jobs here in America—right here in America—and export those products to the world. I am very proud of my State of California. We have led the way when it comes to creating clean energy jobs. But we should be incentivizing those companies and making sure they stay in America, that they do not move their manufacturing abroad.

That is why our legislation is so crucial. The Pew Charitable Trust looked at California through this recession. You know what they found? That because of our clean energy laws in California, we have seen 10,000 new businesses and we have seen 125,000 new jobs created. It is the words “made in America,” again, are on those technologies. They are making the solar panels. They are installing them, and people are very excited about this.

But if we incentivize companies to move overseas, we could lose that. We want to be the innovators, the creators. We also want to be the producers. So it seems to me, if we proceed...
to this bill, we are taking a big leap forward, and that leap forward means we are sending a clear signal: If you choose to create jobs in America, we want to give you every incentive—tax breaks, tax holidays—for your employees. But if you choose to set up shop and send those jobs elsewhere, to China, to India, wherever, what we are saying is: You can do that, but we are not going to give you a reward for it.

It is as simple as that. I ask unanimous consent that the Senate proceed to the immediate consideration of Cal- endar No. 578, S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any state- ments be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERTS. The distinguished Senator from California said that if we choose to proceed, we will have a vote tomorrow at 11:30 on this bill. I think her actions are premature, so I do ob- ject.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Minnesota is rec- ognized.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The ACTING PRESIDENT pro tem- pore. Without objection, it is so or- dered.

Ms. KLOBUCHAR. I have come to the floor today in support of the Creating American Jobs and Ending Offshoring Act, which I believe, as was well stated by the Senator from California, will go a long way towards promoting job creation in the private sector and leveling the playing field for American workers. The reports have shown that retail sales are up, hourly wages are rising, and household debt is at its lowest point in a decade. We have seen some particularly promising bright spots in Minnesota, where our manufactur- ing exports increased 19 percent in the second quarter to $4.3 billion.

Minnesota also has one of the lower unemployment rates, 7 percent, com- pared to 9.6 percent nationally.

But numbers are starting to point in the right direction, too many Minnesotans, and too many Americans are still out of work. As one of my constituents recently put it, “unemployment may be 7 percent in the rest of the state, but it’s 100 per- cent in my house. That is what matters to me.”

He is not alone. Nationwide, there are still 15 million Americans out of work, and another 6.6 million who have joined the ranks of the long-term un- employed.

I received a letter from one of them just the other day—a constituent of mine named Jon, from Northfield, MN—and I would like to share what we wrote. He says:

“I am 63 years old and I have worked my whole life. I lost my job in January 2009, and I have applied for time since even for some that’d pay half of what I previously earned. What’s being done now for the millions of us without work?”

The bill we are discussing today is not a silver bullet solution to our eco- nomic woes. But it will help answer Jon’s question, a question that is on the minds of millions of Americans right now.

First, it will create a payroll tax holiday for businesses by eliminating the employer share of the Social Security payroll tax on wages paid to new U.S. employees. This will be available for 2 years and applies to any new American worker who is hired to replace a for- eign employee.

For far too long, we have seen our homegrown jobs shipped overseas. It is time to level the playing field for American workers, and the payroll tax holiday creates a market-based incen- tive for that. It encourages companies that might otherwise hire foreign em- ployees to create jobs here at home—in places like Northfield, MN, not Mumbai, India.

Second, this bill will close the tax loopholes that have put our workers at a competitive disadvantage, a provi- sion that will also encourage compa- nies to bring jobs back to the U.S.

That is important, but I want to point out that this bill is about more than just job creation. It is about re- building our economic foundation. It is about reviving our manufacturing base and moving away from the mindset of the last decade, a mindset that glorified debt, consumption and the empty churn of money.

What we need now are policies that allow us to be a country that thinks, invents, and makes things again, a country where you can walk into any store on any street in any neighbor- hood and purchase a product at the best price and be able to turn it over and see the words: “Made in the USA” stamped on the bottom.

As Tom Friedman, the New York Times columnist and Minnesota native, has put it, we need to be doing some “nation building in our own nation.”

I often think about the opening cere- monies at the 2008 Summer Olympics in Beijing, the ones that featured that perfect, synchronized 2,000-man drum- ming routine. Well, those drumbeats are only getting louder and louder.

While China builds the world’s lead- ing solar energy industry, we sadly still have not passed an energy bill, de- spite the job creation and a renewable en- ergy standard. While India encourages invention and entrepreneurship, we give our innovators the runaround. And while Brazil produces more engineers, and we lose our students fall behind. The world is moving ahead fast. But we are not going to let it pass us by.

As a country, we have always been home to the most productive, innova- tive, and resourceful workers in the world. I am talking about the men and women who have mined, manufactured and constructed every great product of American innovation, from cars to air- planes to solar panels to satellites.

In other words, the men and women who are doing the kind of work our country was built on, the kind of work that made America great in the first place.

We have before us a bill that makes sense: the work that is done right here in America, in our factories, in our office buildings and in our manufacturing plants. It is a good step towards not only rebuilding our domestic industry, but towards putting more Americans back to work, and I urge my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tem- pore. The Senator from Kansas is rec- ognized.

Mr. ROBERTS. Mr. President, it is in my understanding—and I am asking the Presiding Officer—that under rule VI, No. 4, at 7 we are going to be pre- sented with a live quorum call. Is that not correct? Is that the schedule for the Senate? I am asking to determine how much time I have between now and 7 o’clock.

The ACTING PRESIDENT pro tem- pore. The Chair is under the impression— and I am asking the President—that under rule VI that a live quorum call will be made at 7. The Senator has the floor.

Mr. ROBERTS. It says, for those who take the time to be familiar with pro- ceedings of this distinguished body, that:

Whenever upon such roll call it shall be ascertained that a quorum is not present, the majority of the Senators present may di- rect the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be de- termined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to ad- journ or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

So I thank the President for making that very clear. Hopefully, that sheds some light on what we are doing on a Monday evening, which some Senators would simply call a bed check. We are scheduled to vote at 11:30 tomorrow on whether to proceed with a debate that has been taking place here on the Sen- ate floor. I think that obviously would be a mistake time for the Senate to adjourn to recess, or a previous order entered by unanimous consent, shall be in order.

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overseas less competitive. But I don’t think we should be surprised, given that the majority has not yet acted to keep taxes from increasing for families and small businesses—all nobody—come next January. That is the real bill we should be considering. That is the bill we certainly should be considering before we adjourn until the lame-duck session of Congress which I assume is still being planned.

It is most unfortunate that we are going to a lame-duck session of Congress. I had a constituent say: Lame-duck; that is going to be a Daffy Duck. I think that is a little harsh given the intent of both Houses of Congress, but what we really ought to be talking about is the tax increase that is going to take place in less than 90 days unless Congress acts. I know there was a great discussion within the majority caucus as to whether we should move on that, whether we should take a vote on that, both in the House and the Senate. That is really why I come to the floor.

This is a looming tax increase that will take effect next year. It is going to hit every American who pays income taxes. There has already been a great deal of debate about who will pay these higher taxes. The President and many of his supporters in Congress say they will not raise taxes on those families earning under $250,000 or individuals earning under $200,000. That was a campaign pledge of the President.

The American dream—or at least it was when I was growing up, and I had hoped it would be for my kids and grandkids meant one could climb the ladder of success, the ladder of economic success as high and far as they wanted, and nothing government-made or manmade would stand in their way, except they had to do the climbing. Now we find that when you hit $250,000, or manmade would stand in their way, either you are filing a joint tax return or if you are filing individually, you are rich. They describe people who earn over $200,000, $250,000, and regardless of their obligations, regardless of whether it is a small business, and regardless of what those circumstances may be, bingo, they are going to have to pay that higher tax rate. So we have somebody in Washington describing in manifest detail who is rich and who is not in the United States. I find that to be the antithesis of the American dream. I grew up least as I understood it. I think now there is a hue and cry of, let’s level everybody with everybody else. I do not think that is where we want to be in terms of our national interest.

The health care reform law has already broken the pledge in regard to that of the President, the $250,000 and the $200,000, because that imposes a slew of new taxes on small businesses and health care consumers, including those earning well under these income levels. So we should be weary of any pledge by the President or the majority to protect taxpayers from the harmful tax increases that are set to take effect in January. With less than 90 days—about 3 months—left in the year, this administration and the majority in Congress have done nothing except talk about it in their caucuses and to find out where the votes were and to decide whether or not to move before the election. That is the truth. Nothing to prevent this massive tax hike on American families and small businesses.

Now it is September. I don’t think most folks are really thinking about their income taxes right now. They should, but they are not. They put the frustration of April 15 behind them. Tax freedom day is somewhere down the road in April or May. That is when you have all the taxes, and that is where all of your income goes to government and you finally have tax freedom day. That becomes something that comes to their mind right off the bat in the spring. But some families were fortunate enough to able to take a vacation as of this summer or late summer. However, many were working instead and very happy to do so, given the situation in regard to jobs. They are just happy to have a job to provide for their families and they are probably thinking about what is going to happen on January 1. They will be handing more of their paycheck over to Uncle Sam. That is exactly what is going to happen if the administration and the majority in Congress do not act and do not act so soon. We should act before a lame-duck Congress.

Some have dubbed this tax relief package the “Bush tax cuts,” saying they only benefit the wealthy. Let me point out, that is simply not correct. I don’t see how continuing existing tax policy that has been in effect for 10 years constitutes a tax cut. It is preventing a tax increase. If we want to get partisan about it, it is not even a Bush tax cut. If a President Obama tax increase that we are trying to prevent.

Let’s take a minute and look at how this tax relief passed on a bipartisan basis and how all 100 Senators in the majority who are still serving in this body let’s take a look at it and how it has benefited families and small businesses across all income levels.

The bipartisan tax relief doubled the child tax credit from $500 to $1,000. This credit amount will be cut in half next year. The bill lowered capital gains and dividend tax rates to benefit families who invest long term and save for their future.

These taxes will go up dramatically next year. If you read any financial publication, are aware of any think tank that deals with taxes and finances and the Wall Street Journal, for example, you find out that is going to have a dramatic effect—a very unfortunate law of unintended effects. Those taxes will go up, as I said, very dramatically next year by as much as 33 percent for capital gains and 184 percent for dividends.

This bill lowered income tax rates for every taxpayer who pays taxes—I am talking about the 10-year existing tax relief—whether you are a lower income taxpayer, a middle-income taxpayer or an upper income taxpayer. So unless we act soon—and that is in the hands of the majority—taxes will go up for every taxpayer as of next year, and that is the bill we should be considering now, not a bill that is going to cause quite a bit of harm to every company that does business overseas.

There are just a few examples of what this will mean to working families if the majority allows these provisions to expire: A single parent with two children who earns $30,000 will see a tax increase of $1,100 a year. A family of four who earns $50,000 will see a tax increase, on an average, of $2,100 per year.

Clearly, these families are earning well below the $250,000 threshold the President promised to raise taxes on these folks. Yet in just 3 months, that is exactly what is going to happen. So you might want to think about it. America, as well as what is going to happen down the road a little bit. You have Halloween. Then you have Thanksgiving, Christmas—not the time you are thinking about a big tax increase that is going to whack you right in the forehead, but that is exactly what is going to happen.

The President’s supporters in the Congress have yet to introduce a bill to prevent this tax hike. It is that simple. We certainly do not see any language on a bill to prevent this massive tax hikes that go into effect on January 1. However, the President and his supporters in the Congress say they want to extend tax relief for everyone but those taxpayers they say are wealthy. Who are these folks? Who are these wealthy taxpayers? Well, under the President’s proposal, and presumably the proposal supported by most in the majority, it is any individual who earns more than $200,000 in income per year or any family who earns more than $250,000.

I know there are some who earn much less than these amounts who think that sounds fine. Well, maybe to some it does. It is always: Don’t tax me. I won’t tax thee. Tax the guy behind the tree.

There is a little bit of envy here that goes on among all of us, I think, in our hearts when we look at people who earn huge salaries. Somehow, some way that we have now defined those people at $250,000 and $200,000. I think that is unfortunate because we all benefit—we all benefit—when incomes increase and people become successful. That is how the economy gets turned around. That is how we have people who are entrepreneurs and they invest and they provide more jobs. When incomes go up and people have more of their own money to spend and invest, they see businesses are started, expanded, more jobs are created and—guess what—more income comes into the government.
There is a lot of money sitting on the sidelines waiting. If you do not take more money out of people’s pockets, you will see, I think, a burst of economic activity that results directly or indirectly to the Federal Government.

I was just reading in the Wall Street Journal an article about that. I intended to bring it over, but I failed to do so. You can just take it from me. When incomes go up and people have more of their own money to spend and invest as they see fit, more businesses are started and expanded and more jobs are created.

To see the harm in raising the top two tax rates, to target those earning over the $200,000/$250,000 threshold, we only have to look at what allowing this tax relief to expire means for small businesses to see the danger in allowing this tax increase to take place.

Because many small business owners pay their taxes on their individual income taxes, if the top two income tax rates are not extended as the President proposes, small business owners in these tax brackets will pay those higher income tax rates.

The administration says these higher taxes will affect only 3 percent of small businesses and should not be concerned about raising these taxes. If we have heard 3 percent, we have heard that enough over and over and over again: only 3 percent. But those numbers downplay the impact of raising taxes on small businesses.

Let’s look at what such a tax hike would mean for America’s small businesses. Keep in mind, these are the same businesses that, by the President’s own admission, are the Nation’s job creators. They create 70 percent of the jobs in this country—70 percent. Yet under the President’s proposal, tax rates would increase by at least 17 percent on small businesses.

According to the nonpartisan Joint Committee on Taxation, the top two tax rates on small businesses would yield nearly $500 billion—another $ 1⁄2 trillion—in small business income to higher taxes. This is a very conservative number. Further, small businesses with between 20 and 299 workers employ about 25 percent of the U.S. workforce. So we are taking action to raise taxes on 25 percent of the U.S. workforce.

These small businesses will have to recover the cost of higher taxes somewhere. It may come from lower wages. Will they lay off workers? Will they reduce benefits or raise the cost of their products? That is dicey, given this kind of environment in regard to consumers and what they are able to do. None are good options.

With unemployment holding steady at over 9 percent, common sense would indicate that raising taxes on those businesses that are creating jobs is a very bad idea. As small businesses face a significant tax hike come January, workers will inevitably pay the price. By one estimate, an increase in the top tax rate would cost jobs by reducing small business hiring by as much as 18 percent. That is 18 percent we do not need.

Raising taxes on small businesses will also likely slow the already weak economic recovery. We see a lot of headlines saying: The recession is over. But let’s talk about the economic recovery. We saw Democrats and Republicans, all of us wish—would take place. The National Federation of Independent Businesses, the NFIB, has said the second most cited concern of small businesses is taxes. As a result, small businesses are sitting on the sidelines until they know whether they are going to be facing higher taxes come January 1. That ought to be obvious. Small businesses need certainty about how much they are going to owe in Federal taxes.

Yet, once again, this administration’s rhetoric on small business does not match the reality of its proposals. The administration says it wants to help small businesses, and it has touted the recently passed stimulus bill as proof of that. Yet this same administration pushes through a health care bill that Americans do not want that imposes higher taxes on small businesses. Now it wants to raise taxes even further on these same small businesses by increasing their Federal income taxes.

It seems a bit ironic to watch the majority touting the small business small business bill that they were in fact, signing into law today. They said small businesses needed this tax relief so they could grow, expand, and create jobs. During debate on this bill, they criticized Republicans for holding up important tax relief for these businesses.

So it is curious now, that many in the majority who supported this relatively modest tax relief and who repeatedly stressed the importance of tax relief to small businesses are now the ones who oppose extending income tax relief that benefits small businesses.

Let me make it as clear as I can. The same members of the majority who supported the small business bill and who insisted we must provide them tax relief are the very ones who oppose extending income tax relief that benefits small businesses.

Why would our colleagues on the other side of the aisle want to allow income taxes to go up at the end of this year for hundreds of thousands of small businesses? Why are we having a vote tomorrow on proceeding to another bill that could be very hurtful in regard to our competitors overseas? How does that aid the economy? How do higher taxes help put unemployed Americans back to work? How does a higher tax burden allow a small business to grow and expand? How do higher taxes on small businesses add to economic recovery?

The answer is pretty straightforward. Small businesses are hurt by higher taxes. They cannot hire new workers and they cannot buy equipment or a new building or make other investments that can help their business grow.

This approach by President Obama and the majority is absolutely the wrong approach to take if we want to ensure job creation and grow our economy. We need to continue the tax relief passed in 2001, by a big bipartisan majority, that has lowered income tax rates for all taxpayers and encouraged families to save and businesses to invest. Continuing this tax relief, rather than putting taxpayers and businesses to work, will help get our economy back on track.

What I usually hear from my friends—and I want to comment on it—on the other side of the aisle, especially when you talk about tax cuts—on the other side of the aisle, especially when you talk about tax cuts—"tax cuts, and then, bingo, for the rich, for the wealthy, We are beating a dead ‘class warfare’ horse, it seems to me. But that simply is not an accurate picture of the massive tax increases that are facing American families next year.

The majority has been in power for nearly 4 years. They have had plenty of time to address this issue, plus estate tax reform, plus the AMT, plus all the other things we say we are going to do but never do. I am privileged to serve on that committee. Yet, similar to a child who has not done his homework, they have put this off until the last minute, creating enormous uncertainty for families and small businesses.

They try to justify these massive tax hikes by saying this bipartisan tax relief contributed to the Nation’s current fiscal problems.

The popular refrain Americans have heard from the President and his allies is that the deficit was inherited, and that it is a result of the tax relief we passed, again, on a bipartisan vote, in 2001.

But the numbers do not add up. Did you know the Federal deficit decreased as the 2001–2003 tax relief took effect? The deficit stood at $412 billion in 2004 as the 2001–2003 tax relief took effect? The deficit stood at $412 billion in 2004 but dropped to $161 billion in 2007. That is the year the majority took control of the Congress, I was here. I know, I could list Senators on both sides of the aisle who are not responsible in regard to reducing that deficit from $412 billion in 2004 down to $161 billion in 2007—tough to do. We had Katrina,
had all sorts of problems, Iraq, two major wars, but we did that.

Three short years later, the deficit has more than quadrupled and this year is estimated to come in at approximately $1.3 trillion—not billion, trillion. The President and his supporters have put in place billions in federal spending that the government can't afford, and it gets our economy moving in the right direction when the same administration has pursued failed policies of unrestrained spending that do little but grow the deficit.

That is a direct result of the massive spending agenda the President and his supporters have in Congress have undertaken, including a failed stimulus bill, bailouts of failed companies, and a health care bill that a majority of Americans do not want—growing by the day when they find out the details of the bill.

What is particularly ironic about all of this is that the President has seen no reason to offset the billions in Federal Government spending that he and his supporters have put in place—billions in new Federal spending on a failed economic stimulus program and billions to failed companies, billions that have contributed to the largest deficit in this country's history.

Further, the President has already said he doesn't plan to pay for the cost of extending about 75 percent of the expiring tax relief—that is about $2 trillion—that benefits lower and middle-income taxpayers. I am for that. Everybody here is for that. And that number is actually expected to go higher. Yet the remaining 26 percent of the tax relief—that tax relief that in part benefits small businesses—the President doesn't want to extend. Why not? Here is the kicker. He says we can't afford it.

We can't afford it? This, from the same President whose spending spree has driven up the deficit to unprecedented levels? The same President who spent over $700 billion on last year's failed stimulus program? The same President who handed out billions in Federal tax dollars to failed businesses? That is right. The President says we can't afford to extend income tax relief for small businesses to help them create jobs, grow, and continue to employ more than 20 million Americans who work for small businesses.

Well, we have a saying for this in Dodge City. It sort of resembles a lot of what we have in our Dodge City feedlots, but I am not going to go into that.

A recent observation by Kevin Hassett and Alan Viard with the American Enterprise Institute writing in the Wall Street Journal sums this up very nicely:

"The administration is right to view the deficit as a serious issue, but this sudden commitment to fiscal responsibility is bizarrely inconsistent. The administration professes deep concern about the $700 billion revenue loss from extending the tax cuts at the top, but apparently views the revenue loss of nearly $2 trillion from extending the tax cuts for the middle class as too inconsequential to mention."

I repeat, again, we are all for that. They continue:

Nor has the administration's concern about the deficit driven it to reduce federal spending.

That is the key. It seems to me it is disingenuous for this administration to say we cannot afford to provide tax relief that helps small businesses and gets our economy moving in the right direction when the same administration has pursued failed policies of unrestrained spending that do little but grow the deficit.

We can and should provide tax relief to all taxpayers, and that should be the business of the day, not a live quorum call or a bed check and then go out this week and then come back in a lame-duck Congress to debate that. Then it would be, what, 40 days before the ax would fall in regard to every American paying more taxes.

The PRESIDING OFFICER (Mr. MERKLEY). The time of the Senator has expired.

Mr. ROBERTS. Thank you. We can and should provide tax relief to all taxpayers—tax relief that helps families keep more of their hard-earned dollars and tax relief that provides certainty to small businesses so they can make investments and create jobs without the fear that their taxes will go up. We need to extend this tax relief that keeps money in the hands of families and small businesses rather than putting it in the pocket of Uncle Sam.

I yield back the remainder of the time that the distinguished Presiding Officer granted me.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

(Quorum No. 5 Leg.)

Akaka
Alexander
Bond
Bennet
Bingaman
Bennett
Brown (MA)
Brown (OH)
Burr
Canwell
Cardy
Casey
Durbin
Ensign
Feingold
Feinstein
Klobuchar
Kaufman
Landrieu
Lautenberg
LeMieux
Lieberman
McCollum
Merkley
Menendez
Nelson (NE)

NAYS—25

Alexander
Barrasso
Bennett
Bond
Barrasso
Burr
Coburn
Cochran
Collins

BAYH
Bunning
Carper
Chambliss
Conrad
Corzine
Crapo
DeMint
Dodd

Bayh
Bunning
Carper
Chambliss
Conrad
Corzine
Crapo
DeMint
Dodd

BAYH
Bunning
Carper
Chambliss
Conrad
Corzine
Crapo
DeMint
Dodd

BAYH
Bunning
Carper
Chambliss
Conrad
Corzine
Crapo
DeMint
Dodd

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The Senator from Missouri.

Mr. BOND. Mr. President, what is the pending business? The PRESIDING OFFICER. The pending business is the motion to proceed to S. 3816. The time is organized in 30-minute alternating blocks.

The PRESIDING OFFICER. The Senator from Missouri—9:372

Mr. BOND. Mr. President, I ask unanimous consent that the pending business be set aside and that the Committee on Environment and Public

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The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, reserving the right to object, I say to my colleagues from Missouri, clean energy jobs are the jobs of the future. As we create clean energy jobs, we will find a way to compete with China and other nations that are trying to take over this whole area. They know the whole world is moving toward more sensible use of resources and the environmental damage they cause. As a result of that, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Missouri.

Mr. BOND. Mr. President, the regulations the EPA is proposing will hit every American family with higher electric bills, more expensive food and clothes, and more pain at the pump. American workers, especially those in energy-intensive manufacturing jobs, will face job loss or more difficult job prospects.

We have bipartisan language. Six Democrats have already stated on the floor they favor this. Whatever one thinks about the cap and tax, I believe there is a strong majority who thinks a regulatory agency should not establish it bureaucratically.

There is a lot of work we need to do in energy. We need to develop our own energy. When we talk about nuclear power, when we talk about clean coal technology, when we talk about biofuels and woody biomass, all of these things are good. But when we talk about wind power and solar power, how much is it going to cost us? We have found that the costs are overwhelming.

I welcome a discussion of this issue, but the first thing we need to do is make sure our country is not shut down by overreach EPA regulations. That is why I proposed the unanimous consent request. I understand the leader on the majority side has promised we can discuss the Rockefeller bill. We need to vote by the end of the year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I will offer a unanimous consent request in a moment that will permanently lock fairness into the Tax Code.

American taxpayers are currently allowed to deduct either State income or sales taxes on their Federal tax return. Americans who live in States with a State income tax have always been able to deduct their State taxes. In some States, that is a significant financial aid for millions of taxpayers, and it brought back some fairness to the Tax Code. Americans in States that have no income tax, such as Wyoming, Texas, Alaska, Florida, Nevada, South Dakota, and Washington, finally received relief similar to individuals in States with State income taxes.

The sales tax deduction needs to be made permanent. Now is not the time to raise taxes on American taxpayers.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3617; that all after the enacting clause be inserted; I ask unanimous consent that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relative to the measure be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I reserve the right to object. This is one provision we need to pass. There are, however, many other provisions we need to pass. They are in the category of tax extenders.

Clearly, the State and local sales tax deduction should be passed into law. Senator MURRAY from the State of Washington has been working hard. Washington, obviously, is a State that needs this deduction. There are many States that need this.

Unfortunately, the provision called for by the Senator from Wyoming is not paid for. It is going to add to the deficit. I might add that the other provisions that must get passed which expired at the end of last year, I say with embarrassment, must be passed this year, and State and local sales tax deduction is one of them.

What are some of the others? Research and development tax credit, we have not had that. It expired in the last year, as did the State and local sales tax deduction. It expired in the last year. There are many others that expired in the last year.

What is the Senate doing? The answer is nothing because the other side of the aisle would not let us bring up the package of extenders. The Senator from Wyoming picked out one little one. The fact is, we have to get them all passed; otherwise, many people are going to be in a very disadvantageous economic position.

I object to the request made by the Senator from Wyoming.

Mr. BAUCUS. Objection is heard.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 4994, taxpayer assistance; that the Senate proceed to the immediate consideration of H.R. 4994, tax cut legislation as amended; that the Finance Committee be discharged from further consideration of H.R. 4994, taxpayer assistance; that the Senate proceed to the immediate consideration of the Finance Committee discharges.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. BARRASSO. Mr. President, at this time, it is my understanding that this time is reserved for the minority party.

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. What is the parliamentary procedure?

Mr. SESSIONS. If the Senator wants just 1 minute, I would—

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. BAUCUS. I thought we were going back and forth.

The PRESIDING OFFICER. No. Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I would be pleased to yield.

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

UNANIMOUS CONSENT REQUEST—H.R. 4994

Mr. BAUCUS. I thank my colleague.

Mr. President, I ask unanimous consent—it is on the same subject—that the Finance Committee be discharged from further consideration of H.R. 4994, taxpayer assistance; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of the Baucus substitute amendment, the text of Calendar No. 372, S. 3793, be inserted in lieu thereof; that the substitute amendment be agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table; that the title amendment, which is at the desk, be considered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. BARRASSO. Mr. President, reserving the right to object, I would say that Senator THUNE has a bill similar to this amendment, and I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 3793, the Thune amendment, and in light of the fact that Senator THUNE’s legislation has been objected to and not yet been able to get clearance from the other side, I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, the World Economic Forum recently published its global competitiveness survey. It shows that the competitiveness of the United States has declined from first place in the world to fourth place since President Obama took office in January.
What is the main reason for this decline? Too much debt and too much spending. There are other reasons, but that is the primary one they cited. I would suggest that the proposals to drive up the cost of energy by regulation and cap and tax—supposedly to create another fear of anticompetitiveness that hurts our productivity as a nation. A study of Spain, which has some of the most powerful alternative energy proposals and has taken some of the most dramatic action, has shown that even though there are green jobs created, the overall rise in the cost of energy in Spain has cost that nation more jobs than were created by the green activities.

According to the Washington Post, a senior economist at the World Economic Forum said:

It was government debt and the country’s overall economic outlook that pushed the United States down.

The article goes on to note:

Government debt affects a country’s competitiveness by limiting its ability to respond to crises or to make infrastructure and other investments that could boost future productivity. It may also lead to higher interest rates.

I would note also that the EU has a corporate tax rate of 19 percent, whereas the United States has a corporate tax rate of 35 percent, and that costs jobs. When I talked to a CEO recently who said that 200 Alabama jobs were lost because of the higher corporate tax rate in the United States. We cannot sustain that.

How high is our debt today? It is $13.6 trillion or $44,000 for every man, woman, and child in America, and it is 93 percent of our gross domestic product, which is significant because a famous study produced earlier this year by economists Kenneth Rogoff and Carmen Reinhart demonstrated that economies, where gross domestic product reduces GDP growth by 1 percent—when debt exceeds 90 percent of GDP. We are already over that. And when our economy is only growing at 1 percent— as it was in the second quarter—an extra 1 percent is a lot when you are talking about growth. They talk about a new normal where we may be showing only 1, 2, 3 percent growth for years to come. So if you lose a percent based on debt, that is very damaging to the American economy. Well, do we have a plan to reduce that? Have we taken any steps? Actually, the President’s budget makes the problem worse. It shows that the gross debt by 2019 would go to $23 trillion—106 percent of GDP.

Look at this chart on interest payments. It is so stunning that I think every American needs to examine it. It reflects the analysis by the Congressional Budget Office, our professional budget office that serves us, the leadership of which is chaired by the Democratic majority. They are good people, and this is what they have calculated. In 2009, the interest we paid on all the debt in this country was $187 billion. By 2020, they calculate that the 1 percent interest payment would be $916 billion—almost $1 trillion. This is a stunning figure. Last year, the baseline budget—or at least 2 years ago—on highways was about $40 billion. I think the spending on education totally is about $100 billion. So we are talking about $900 billion in interest now because the public debt will triple from last year to 2019 under the budget submitted by the President. You would think we would be talking about highway spending, but we would be dealing with a budget and plans to try to bring that under control, would you not? Surprisingly, we haven’t had any real discussion about the budget this year. Indeed, we haven’t debated the budget on the floor of the Senate at all. This will be the first year since the modern budget process was created in 1974 that Congress has not even considered a budget. It was not brought up. It has not even been produced here.

Mr. WICKER. If the President would ask the Senate to yield for a question on that point?

Mr. SESSIONS. I would be pleased. I see my colleague from Mississippi is here.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Let me make sure the people within the sound of our voices tonight understand this. For the first time in the history of the modern-day Budget Act, the Congress has not even brought forward a budget plan to be debated, much less amended and voted on by the elected representatives of the people; is that correct?

Mr. SESSIONS. That is correct. Is that correct?

Mr. WICKER. And this is astonishing in light of what the Senate has pointed out with regard to where we are going on payment of interest on the national debt. Anytime we are paying interest, that is money that can’t be spent on the roads and the highways, for infrastructure. If someone wanted to try a stimulus for small businesses by cutting their taxes, that is money that is not available to us for that purpose.

I wonder whether the Senator would like to talk about his particular plan, a bipartisan plan, that at least attacks the exponential growth we have had in discretionary spending. I think the Senator has a plan with the Senator from Missouri that would attack this exponential growth. I think it is important to us to virtually freeze domestic discretionary spending for 1 year.

I would commend to my colleagues a letter dated July of this year from every Republican on the Senate Appropriations Committee pointing out, No. 1, the enormity of the Federal debt and the problem and direct threat it poses to national security; the need for a long-term plan; the fact that the committee proposed a milestone budget because we didn’t even get a chance to debate one, to come up with a top-line number; pointing out the Sessions-McCaskill legislation that would essentially freeze nondefense spending, and, importantly, every Republican on the Appropriations Committee said we were committed to that number. I think that as the American people begin to look at us, particularly as we move toward this crucial vote on No. 7485, it is important for them to understand that Republican appropriators have made that commitment and made it in writing as long ago as July of this year.

Mr. SESSIONS. Well, I think that is important to note, and I would note further that every single Republican supported the McCaskill-Sessions amendment, and also 18 Democrats supported that. I believe that if we had the leadership just say yes instead of no, it would pass easily. It would be a tremendous thing because it would send a message to the financial markets worldwide that we at least have some fiscal discipline, and it would be very
unlikely that spending would go above this level if we had a two-thirds super-majority point of order to object to spending over that level.

I would note that the amendment is supported by a number of bipartisan groups in the Senate, including the Senate Majority Coalition, the Committee for a Responsible Federal Budget, the National Taxpayers Union, the Heritage Foundation, former Congressional Budget Office and OMB Director Alice Rivlin—she served under President Clinton—and former Director Douglas Holtz-Eakin. So this is a bipartisan piece of legislation that would bring us to a point that, I believe, we can say to the world that we are going to stand by the numbers the President gave us last year—not Republican numbers but the President's numbers.

Remember, the baseline budget increases are already there. So I think what we are really going to have to do—when we really get a budget and get some new leadership and get committed after this election, when we get a spanking by the American people—is to get budget numbers based on the 2008 spending levels. It will not bankrupt us. The country is not going to sink. It will only get worse. If we went back to the 2008 levels, the 2007 levels, and then have some modest increases based on inflation rates, we would see an even larger improvement in our financial situation and be more competitive.

Mr. WICKER. If the Senator would yield one more time—I know we are limited on time—some other people are scheduled at the top of the hour, but I think this is very important.

We were spending an enormous sum of money in fiscal year 2008. I do believe that in this crisis we have, we can get back to that level and make do. That is so important in light of what this Congress and this administration have done to the national debt in 3 short years. This year, this government added $1.4 trillion to the national debt. That is $1.4 trillion we spent here in Washington that we didn’t have. This year, it will be almost that much—$1.54 trillion. And if things don’t change, the national deficit, which will grow to the debt, the next fiscal year will be $1.42 trillion. It is a crisis. We need to address it, and this legislation is a start.

Mr. SESSIONS. I thank the Chair and yield the floor.

Mr. SANDERS. Mr. President, one of the major reasons the middle class of this country and why the working class is being decimated and why real wages are going down for millions of American workers who are working longer hours for low wages is that for a number of years now we have been hemorrhaging manufacturing jobs. While this trend has in fact been going on for decades, it accelerated during the 8 years of the Bush administration. During that period, those 8 years, we went from 17 million manufacturing jobs to about 12 million. We lost somewhere near 5 million manufacturing jobs during that 8-year period, a decline of about 30 percent in manufacturing jobs. Today, here in the United States, we now have the fewest number of manufacturing jobs since the beginning of World War II.

As Senator DURBIN pointed out on the floor today, from 1999 to 2008, multinational corporations based in the United States laid off nearly 2 million American workers at exactly the same time period as they were hiring over 2 million workers abroad. They laid off 2 million workers in this country and hired 2 million workers abroad.

Under President Bush, our trade deficit with China more than tripled, and our manufacturing jobs have nearly doubled. Today our trade deficit is over $700 billion. In other words, we are importing $700 billion more than we are exporting.

There are a number of reasons why manufacturing jobs are disappearing, but a very major one is that corporate America continues to increase its bottom line by hiring workers in China, Mexico, Vietnam, and other developing countries instead of employing American workers at decent wages in this country.

In my view, if large corporations want us to buy their products—and they certainly do; you cannot turn on television without corporate America telling us how much we should be buying their products—the time is long overdue for them to reinvest in the United States and build manufacturing plants here and not in China. A country—which cannot, will not, and will not can afford to pay the costs of production that consumers require and becomes more and more dependent on other countries for what it needs is not a country that will remain a major economic power in this global economy.

The legislation we are debating today, the Creating American Jobs and Ending Offshoring Act, is a good first step. This bill uses the Tax Code to begin to bring more manufacturing jobs back into America. But let us be clear: This is just a beginning. Much more needs to be done. The simple truth is that American workers cannot and should not be asked to compete against desperate people in developing countries, people in China, Mexico, Vietnam—other countries, where workers are paid a dollar an hour, where they may go to jail if they try to form a union, and where there are very few environmental standards. It seems to me to be absolutely unacceptable that our people are forced to compete against workers who are paid a little.

What we should be engaged in is a race to the top, not a race to the bottom. Yet that is exactly what is happening. If the United States is to remain a major industrial power, producing the products our people need and creating good-paying jobs, we must develop a new set of tax and trade policies that work for the American worker and not just for the CEOs of large corporations. The American people are sick and tired of losing decent-paying jobs to China, to India, to Mexico, as multinational companies throw American workers out on the street, go abroad, produce their products for pennies an hour, and then bring those products back into the United States. The result is job losses.

In August I had about a dozen town meetings throughout the State. In every single town meeting I had in Vermont, people stood up and they said: It is becoming increasingly difficult to buy a product manufactured in the United States of America. How are we going to create jobs for our kids if we don’t have a manufacturing sector?

I very much agree with that sentiment. We have to stop giving large profitable corporations tax breaks for shipping jobs overseas and start giving immediate tax relief to businesses that bring jobs back to the United States. That is exactly what this bill would do, and that is why I am a strong supporter of it. But let’s let there be no doubt, much more needs to be done. As somebody who voted against NAFTA when I was in the House, as somebody who voted against Permanent Normal Trade Relations with China, I think this legislation shows that we need to fundamentally rewrite our trade policy to benefit the middle class of this country and to raise the living
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standards of people around the world instead of promoting a destructive race to the bottom, which is what we are seeing now.

Supporters of unlettered free trade told us over and over how their policies were going to lead to a better life for the majority of Americans. Unfortunately, they have been proven dead wrong. NAFTA turned a trade surplus with Mexico into a huge trade deficit and we lost over 1 million jobs as a result. That is what NAFTA has done.

As a direct result of Permanent Normal Trade Relations with China, we lost over 2 million jobs to China and our trade deficit with that country nearly tripled. Anyone who has shopped at a Wal-Mart or any other large store in this country knows it is almost impossible to find anything made in the United States of America today. We are not just talking about sneakers; we are talking increasingly about high-tech products.

Let me give a few examples. Today, 80 percent of toys sold in the United States are made in China. Today, about 90 percent of vitamin C sold in the United States is made in China. Today, 85 percent of bicycles sold in the United States are made in China. Today, over 80 percent of all shoes sold in the United States are made in China. Today, about 90 percent of U.S. furniture production has moved to China.

We have to recognize that if this country is going to remain a major economic force in the global economy, if we are going to have decent jobs for our kids and our grandchildren, we must rebuild the manufacturing sector of this country. We must demand and develop policies that enable corporate America to start rebuilding our manufacturing sector rather than moving abroad in underdeveloped countries. The time to move up has been before us for a good start, but, as I have indicated before, much more has to be done. I hope we will come up with a cloture vote to allow us to debate this issue.

I wonder if my Republican colleagues have met people who have lost their jobs to China; if they know anybody who has seen a plant close and they know what it does to the family. They lose their job, they lose their health insurance, they sometimes lose their house. They have to explain to their teenage children: Sorry, we are going to have to move out of your room anymore. I am not sure what school district you are going to go to.

Do they know people such as that when they stand up on an issue this important to talk about the budget deficit as if they didn’t run the largest surplus in American history 10 years ago into the largest budget deficit in American history in 8 short years of George Bush government, of tax cuts to the rich, wars that were not paid for, bailouts to the drug and insurance companies in the name of Medicare privatization, deregulation of Wall Street and these trade agreements that continue to send jobs overseas?

Let me put up a chart here to show some examples in my State of some companies that are pretty well known: “American Standard Company factory in Tiffin To Close.” If you go into a local hardware store and look at the toilets that are made here, the American Standard was once made by American Standard in Tiffin, OH. Bain Capital out of Massachusetts, Governor Romney’s company, came in and basically did away with that company. “Etch A Sketch Leaves Home.” Etch A Sketch is called the Ohio Art Company, in Bryan, OH.

A small town at the corner of Senator Stabenow’s Michigan and Indiana. Walmart came to Ohio Art Company and they made this toy. They make Etch A Sketch. We want to sell it at Walmart for under $10. The only thing that Ohio Art Company could do was shut down that part of the factory and move it to China.

One hundred years of vacuum cleaner production comes to an end in Stark County in Canton, OH. Same story. To the lowest bidder go the lowest paying jobs. Huffy Bicycle, Celina OH, on the Indiana border. Senator Dorgan has talked about what happened to Huffy Bicycle. So they moved that bicycle production to China. These were good-paying, industrial, union jobs usually—not all union jobs. They do not have to be union jobs. But they were jobs that created a middle class.

But do you know what has happened? Not since colonial times has American business had a business plan where they lobby Congress to change the rules so that they can move their factories abroad and then they lobby Congress to change the rules, they then shut down their plants. In Burlington, VT, in Providence, RI, in Detroit, MI, and Toledo, OH, they shut down their plants. Then they move to China. They obviously exploit the lowest paid workers they can get.

They then sell the goods back to their home country. They shut down the plants here, they move them 7 or 8 or 9 or 10,000 miles away. Then they sell the produced products back home to the United States. Look what that does to individual people.

Again, to my colleagues on the other side of the aisle, do they know people who have lost their jobs in their District and they have met people who have lost their health insurance and went to Mexico? Do they know people who lost their health insurance when a plant shut down and went to China? Do they know people who had their homes foreclosed on because they didn’t have the jobs and the health insurance and they have nowhere else to turn?

Yet, instead of debating this, instead of their standing and arguing in support of these tax laws and trade laws that have bankrupted our country, and surely have caused our industry to decline, they just change the subject. They do not want to debate it. Senator Durbin said—and I would echo it and make the same offer. I will go to any State in the country with any of my Republican colleagues and we will have an open, fair debate on this tax law and on this trade law.

I would love to go anywhere in the United States and have a public debate today about the policies that got us into this mess. Not since colonial times has American people how much this has undermined our sovereignty, our wealth, our manufacturing base. They are not willing to debate it. But when we bring this forward, you know they will object, and you know what the Senate rules are. One person can stand and object and we cannot pass the bill. They are more interested, way more interested in scoring political points than they are in debating the merits and showing what exactly we need to do as a nation to begin to restore our manufacturing base.

I would conclude with this. I hear my Republican colleagues talk and be critical of everything President Obama has done. That is fine. That is politics. But what they are arguing that should do is go back to the policies that got us into this mess.

Let me put in a little bit of historical context. Eight years of President Clinton, from January 20, 1993 to January 20, 2001, the largest 8 years, 22 million private sector net job increase in this country. Eight years, from January 20, 2001, to January 20, 2009, 8 years of George
Bush, 1 million jobs created, not enough to even keep up with an increase in population.

The 8 years of President Clinton, wages went up for the great majority of Americans. Eight years of George Bush went down for the majority of Americans. Eight years of Bill Clinton, at the end of his eighth year, he left a budget surplus that was the highest in American history. After 8 years of George Bush, he left a deficit that, at the time, was the highest in American history and they have the gall to be critical of everything Barack Obama has done, like he created this.

They have the gall to argue that the voters should choose them to go back to the same philosophy. They are not saying do anything different. They still say tax cuts for the richest Americans. They still say privatization of Medicare and Social Security. Thank God we did not pass that 5 years ago.

They still say more trade agreements that outsource jobs. They still say do not change the tax laws no matter how much damage they have done to us. They still say we should deregulate Wall Street. That is the contrast. That is what this debate is all about, the contrast.

Do we want to move forward? Do we want to move forward and write tax law and trade law that will create a middle class and not see another American Standard close in Ohio and another Ohio Art Company close and another vacuum cleaner producer and another Huffy Bicycle company close in Ohio and move offshore.

In the end, it speaks volumes about Republican loyalties, loyalty to these large corporations that outsource jobs, no real loyalty to communities, no real loyalty to these small companies, and no real loyalty to workers. When a plant closes, how the heartache it brings to the worker, to the families. We know the damage it does to communities as they lay off teachers and others; Thursday, in the New York Times—

Mr. SCHUMER. Mr. President, first, I think of the people I have met who have lost their jobs. We see the families, we hear the children, and so there is an urgency to do something. Every place I go in New York—it can be in upstate, an old manufacturing plant; supposedly the new economy—I hear about jobs leaving New York and leaving America and going overseas.

Then, there is some talk as if this is inescapable, inevitable. That is what we are here to say tonight. We can do something to stop this, and stop it we must. Manufacturing used to be the backbone of our economy. It supported millions of families, the backbone of our communities. It is no secret what happened.

Company after company after company began sending jobs to China and Vietnam and Malaysia, to Mexico and Brazil and parts of South America. These senders of jobs—these service centers, these outsourcing centers—these are companies that have lax enforcement of work rules, environmental rules, and pay rules. So it is cheap to produce goods. We have heard the statistics, how the United States lost millions of manufacturing jobs in the last 10 years—in New York, 90,000 manufacturing jobs in the last 3 years alone. One-third of our manufacturing base has disappeared nationally. In fact, I recently read that the United States has lost 42,000 factories since 2001, and 75 percent of those factories employed more than 500 workers. The bigger factories leave. Forty-two thousand factories closed, most of them employing more than 500 people.

I think of the people I have met who have lost their jobs. I go around my State and sit down with people who cannot find work. They come from all walks of life. I wish to tell you about Clay, a high school graduate who rose to the top of his industry in tool and die—

Mr. SCHUMER. Mr. President, first, I wish to thank my colleague who has spoken before me. The reason we are here tonight is because Senators Brown and Sanders said: Why talk about outsourcing of jobs, let’s do something about it. That is what we are trying to do tonight. We are trying to actually do something about it. This is not just verbage.

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The PRESIDING OFFICER. The Senator from New York—

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big, new growing industry. I am going to be safe—600 jobs. East Fishkill, Dutchess County. Europe and Singapore.

Pfizer, largest pharmaceutical company in the world, used to have significant manufacturing operations in Rockland County, but as part of their worldwide restructuring, after Pfizer purchased Wyeth, 1,500 jobs gone to Ireland, Belgium, Canada, Puerto Rico.

We could all tell a few stories in every state. I guess some of us, I hope everyone on both sides of the aisle knows the Dorothys and the Clays and the others who give this reality.

But there is another element to this debate. When companies move production overseas, it takes a human toll. Here is the most telling statistic of the last 10 years. From 2001 to 2007, a period of prosperity, median income went down. Even though we were prosperous, even though average income went up, wealth went up, GDP went up, but for the average middle-class person, income buying power went down. There are no statistics, but it would be hard not to assume that a good amount of it was because of outsourcing.

Last week, there were headlines quoting me saying that, technically speaking, the recession was over. Let me tell my colleagues, to the average middle-class person whose paycheck is lower because they have less income, the recession ain’t over. To most americans, it sure doesn’t feel like a recovery yet. The bottom line is that there won’t be a true recovery until we create jobs in America, in the U.S.A. If we want to get our economic prosperity back, we need to bring the jobs back. We need to have “make it in America” become a reality on the floor of this Senate legislatively.

With this bill, we make our boldest attempt to reverse the trend of outsourcing. We do it in three ways.

First, the legislation eliminates tax breaks for firms that move facilities offshore.

Amazingly, right now if a company were to shut down a factory in Syracuse and move those jobs overseas, the company could deduct from their taxes the expense of closing that factory and the expense of shipping the materials. This legislation would end that.

Second, the legislation ends the Federal tax subsidy that rewards U.S. firms for their production overseas. Under current law, U.S. companies can defer paying U.S. tax on income earned overseas until that income is brought back to the United States. This provides an incentive to keep that income overseas and employ people there.

Our bill says that if you close down your operations here in the United States and reopen overseas, you no longer get to defer paying your taxes. This should be a no-brainer. It is profoundly wrong that American taxpayers provide benefits to firms that offshore jobs. By rewarding the companies that bring jobs back to America, this legislation puts the incentive back where it should be.

Some say that this provision puts U.S. companies who open foreign subsidiaries at a competitive disadvantage to U.S. companies that don’t. But I say the problem is that current law is a tax loophole. If you have two companies in Oswego that are both going to expand capacity and create 100 jobs, our Tax Code puts the company that chooses to keep the plant in Oswego at a competitive disadvantage over the company that chooses to do it in China.

Our bill would level the playing field, so that companies that keep jobs here aren’t penalized.

These two measures will go a long way towards fixing the problem of outsourcing. But our bill doesn’t just rely on sticks, it also contains a big carrot.

That carrot comes in the form of a major tax cut. We propose giving companies a tax cut—an actual cut, not a credit—for every position they bring back to America.

As long as the company can prove the employee is doing work that was once done overseas instead, the company won’t have to pay the 6.2 percent social security payroll tax for that employee for a year.

For a $60,000 factory worker, that is a $7,440 tax cut. For a $100,000 manager, it is a $12,400 tax cut. That is real money. And it is not a tax credit that a business has to wait a year to receive. It is a tax cut that isn’t collected in the first place, much like the HIRE Act that we passed back in March. So it is a tax cut that puts cash right in the pocket of a business, small or large, with no strings attached.

For once, rather than reward outsourcing, let’s give employers an incentive to bring jobs home. I don’t think that anyone who supports the motion to proceed on this bill believes that this modest piece of legislation is a silver bullet to solving America’s problems. We need to do more. We need to enforce our trade laws; we need to push China on its currency practices; we need to reform our tax code to make it simpler and more streamlined and representative of the modern economy; we need to get our fiscal house in order; we need to invest in science and education and infrastructure. We still have a lot to do to put America firmly on the road to prosperity.

But on the face of it, this bill works.

Earlier this year, as I just mentioned, this chamber passed the HIRE Act, a measure I worked on with Senator Hatch. It provided a payroll tax break for companies that hired an unemployed American. Already, through September, 5.6 million eligible employees have been hired under the act.

Just today, President Obama signed the small business bill that Republicans repeatedly tried to block in this Chamber. As a result, 1,400 small businesses today signed a loan that no bank would provide. That is $730 million worth of credit that flowed just today.

Under that same bill, eight new tax cuts for small businesses became effective today.

These are real results. So we should not stop trying things.

Right now, no issue bothers American issue. Every single one of you has factories that have closed. Families don’t have it easy anywhere in the country.

Politics is supposed to stop at the water’s edge. The flow of jobs should, too.

So before we leave for the year, let’s come together to take up and pass this measure to reverse this trend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I am a little under the weather, so if my voice fades in and out, I will do my best to muscle through it. It has been a tough three hours and I will have to do for the next half hour.

I enjoyed the signs. I didn’t bring one. Maybe I can borrow that sign because I agree, it should be made in America. How are we going to do that when we make America uncompetitive, when we ceux of America the tools and the resources businesses need to be competitive worldwide? This is not a U.S. economy solely where we just sell to Americans; we have to sell and compete worldwide.

I know I have said this before, but I am the new guy. I am the second newest guy here now. What I have observed is that there is plenty of blame to go around. We talk about President Clinton and everything wonderful he did. You did some great things, but he didn’t do it with a Republican Congress and their help as well. It was a bipartisan effort to solve problems. Unless I am mistaken, the majority party has been in the majority for the last 5 years, with the Presidency for almost 2 years. You don’t hear about the problems we have had since that happened. I say there is plenty of blame to go around. Quite frankly, the rhetoric is white-hot. We should try to solve problems instead of pointing fingers at each other and saying that back then this happened or back then that happened and we should do it this way or that way. We have to focus on today, what is happening today.

Right now, we are not competitive. To think this effort to so-called close a corporate loophole is going to help—have you actually gone out to businesses and asked: Will this help you? Are you in favor of this?

It doesn’t work unless we also lower the corporate tax rate to make them competitive worldwide; otherwise, if we keep the corporate tax rate the second highest in the world, we are just
going to chase huge amounts of jobs overseas. We are going to exacerbate the problem we are experiencing now.

I often wonder, why does it take the Chinese less than a year to build, say, a 500,000-square-foot building? I have experimented with putting on an addition, and it takes years, the siting, the permitting, the regulation at the local level, the harassment businesses get. If you are a business or a corporation, the mentality that was it, that's evil, that's not good. We should be embracing businesses for employing. What is a corporation? Last I heard, it is a group of individuals forming together to take advantage of protections and opportunities to expand and be competitive globally. Since when did being a corporation become a bad name in Washington? Am I missing something? How do you think we are going to get out of this economic mess? It is not going to be by hammering corporations and small businesses, raising taxes in the middle of a 2-year recession. Are you kidding me? It makes no sense. High taxation, over-regulation, red tape, the permitting—take the municipal laws and regulations. Why you get out of bed to turn on the lights? Are you kidding me? What is the incentive for people to actually keep jobs in the United States of America?

In Massachusetts, the NFIB and AIM, Associate Industries of Massachusetts, have deemed Massachusetts the worst business climate in decades. That feeling is around the country. When I got elected, they sent a very powerful message. I was out of business as usual in Washington, the disconnect when we deal with taxes and regulation and debt and spending. You don't seem to have learned the lesson.

We are going to do something right now where we are going to offer a little piece of candy by offering a potential tax break for closing a corporate loophole. The majority party is apparently protecting Main Street. Isn't that nice. Apparently, I, the new guy here, am protected. Wall Street, apparently, and big corporations. I didn't know that. I thought I was fighting for the people of Massachusetts to get this body working together to solve real problems.

Enough of the rhetoric. Enough of the blame. Enough of the posturing for the upcoming November elections. How about just solving problems? How about getting our country moving again and get us competing globally?

We just can't wave a magic wand and all of a sudden the tax policy in the United States is competitive with the world. If we do this, if we move this forward, we will be in deep, deep trouble, especially if we don't mirror it with a corporate tax rate reduction to counter the moves that will absolutely happen almost overnight.

If you think that by doing this, jobs are going to come flooding back—if you are an engineer and hire a U.S. worker, you get a tax credit. Oh, that will really work. How about if you do this, you get a payroll tax reduction. Correct me if I am wrong, I made that offer about 3 months ago, a payroll tax reduction paid for by unallocated stimulus dollars. I got four votes.

Want to talk about jolting the economy and giving money to people? Want to talk about helping corporations and businesses stay competitive? How about making the R&D tax credits permanent. How about fixing that 1099 mess? How about accelerated depreciation for small and medium-size businesses to give them incentives to create jobs? Do you know how much how much conservative leaders? I have done my homework. In this position, I have to be prepared or else. Do you know how much money is actually on the sidelines?

Corporations and businesses are saying: You know what, the health care bill, that is going to cost me about $440 million.

One corporation in Massachusetts, one of the biggest employers, has the market on a device that saves people's lives. They can't sell it in the United States. They are concerned about making that permanent. That 1099 loophole, that will really work. How about if you put the municipal laws and regulations, couple them with State laws and regulations and Federal laws and regulations, then throw in the EPA just for the heck of it, or any other agency—the National Labor Relations Board; just pick an agency—then throw in the taxation levels at the city and town levels, the State levels, the Federal level. Why do you get out of bed to turn on the lights? Are you kidding me? What is the incentive for people to actually keep jobs in the United States of America?

I am sorry, Mr. President. If I faint, will you save me? Thank you. I felt it was important to come and make my point that I have been here about 7 months, and we have spent 10 days talking about jobs. Less than a year to build, say, a 500,000-square-foot building? I have done my homework. In this position, I have to be prepared or else. Do you know how much money is actually on the sidelines?

That is just one effort, one thing that has been passed by this Congress and this administration to crush jobs. It crushes Massachusetts' businesses and jobs. We already had 98 percent of our people insured. Now we are getting lesser coverage, potentially longer lines. $1.2 trillion in Medicare cuts. Give me a break. There is no end in sight. The true numbers are coming out.

So why would a corporation or a manufacturer who doesn't do R&D, is it even thinking of starting a business that make that effort? Why would they even bother to open the door? There is the high cost of doing business, transportation costs, energy costs. They are concerned about cap and trade. They are concerned about maybe card check. They are concerned about a whole host of things that are keeping them on the sidelines. To take this and throw this in, forget about it.

The one thing I didn't hear and I thought I would was that Main Street—you know, you guys in the majority party, you are protecting Main Street. I didn't hear that I am protecting corporate America, I hear it in everything else. It is usually Wall Street. Up until this year, I have never been on Wall Street. I think I walked through it once. I am fighting for the people of this country, the people of my State, to get us financially viable, to us to solve problems.

Sometimes I am the 41st Senator. Am I. When it comes to debt and spending and taxation, I am going to be the guy who is going to hold it up to make jobs? I know I want further in debt. When I got here, $1.95 trillion was the national debt. It is over $13.2 trillion now, in 7 months.

I have been blessed. I am so honored to be here. You can't even imagine my life. I am the most honored guy to be here in this Chamber. I have been honored to visit the troops in Afghanistan. I went to Pakistan, Dubai, Israel, Jordan in that 7-month period. The thing that was fascinating to me was, from the kings and queens and prime ministers of the regions, all they talked about was jobs. That is all they talked about: jobs so al-Qaeda would not infiltrate their youth, to get produce to market, to secure the region so we can leave—jobs, jobs, jobs.

We just can't wave a magic wand and put it forth in a bipartisan manner, clean up-and-down vote to protect the small businesses that are getting crushed through paperwork. There is no reason we should not be able to fix that. Why don't you think that, we are in deep trouble. Accelerated depreciation, an across-the-board payroll tax reduction, a freeze on Federal hires, a freeze on Federal pay increases—I know it is not popular, but we have to look at these things. We have to look at entitlements. We have to collect moneys owed to us from contractors whom we overpaid or through fraud and abuse. Common sense, folks.

The thing I kind of get sad about—I know it wasn't popular in some circles for me to worry about financial reform bill. I got a lot of heat. But I looked at it, and I said: That doesn't include Fannie or Freddie. I know that. Do we
do nothing? We do nothing, right? We don’t fix the regulations that have potentially been outdated for 50 years? We don’t prohibit the closing of an entire industry overnight? We allow dentists and doctors and people who are going to finance your fillings in your teeth to tell you how to do this thing? We are going to allow that? I am not going to allow it. I knew they had the votes anyway, but I took the time to work it through, I will tell you what. Since I have been here, that is the most proud I have been to work across the aisle with people for what we did—11 weeks, I think, working with every thinker and leader in this country when it dealt with financial issues.

I have to admit, I learned a lot, sleeping 5 hours a day maybe, slept in my office trying to figure it out and do it right. I was the most proud to work on that bill in a bipartisan manner. I am part of history. Is it the best bill? No. Is it the worst? No. Is it better? I hope so. When do we fix it after November? I hope so. Did we close TARP? Yes. Did we stop too big to fail? Yes. Did we stop the bank tax? Yes. Did we do a lot of things people are concerned about? Yes. Did we solve anything? Yes. You know what—ever since we got back after July it is as though we do not talk anymore. We are just filing bills with no hope of them passing.

The Defense Authorization bill—give me a minute I was sitting in the committee on the Defense authorization bill. I was sitting there in the Armed Services Committee, all eager, ready to go, being someone who was in the military. “Gosh, I am going to make a difference. I am going to make a difference, everybody.” You get there, and it was an invigorating process. We worked our tails off. The chairman said: “You know, Scott, the things you are concerned about that affect Massachusettss and the New England area, we will do it on the floor.” “Oh, good.”

I find out when it gets to the floor the amendment tree is filled. We were offered 20 amendments. That is not good enough. The process is about just scoring points, political points for November. I think the American people are fed up. They are tired of the rhetoric. They are tired of the finger pointing. They are looking for leadership. They are looking for somebody to say: Do you want us to change? Sometimes you have to go back 11-weeks, I get that too. I understand that is bad. But it is what is in play now. If we change this one thing and not something else, it will cause real harm to the economy, and to think we are wasting this amazing opportunity, this amazing opportunity to get our country competitive, this amazing opportunity to get our country competitive, this amazing opportunity, this amazing opportunity to get our country competitive, this amazing opportunity to get our country competitive, this amazing opportunity, this amazing opportunity to get our country competitive.

You cannot tell me we cannot find one thing to agree on. The leaders cannot get together and find one thing. Take the Energy bill. You are telling the companies across the country that the easiest thing everybody agrees on and do one thing, make it clean and get it through, and send it over to the House and make sure it comes clean and not filled with a substitution bill and the other things. We are going to do one thing—just one? Am I the only one who believes this?

I get that the bill on the floor tonight is important to the majority party, and I respect that. I do. I get it. And pollsters, if you listen to them—it is bad to make money in America. I see and when I speak to the companies—such as Belgiuim and Ireland, I respectfully disagree. I want to see American multinational companies less competitive. So it is not just Republican Senators. My colleague, whom I have great respect for on the other side of the aisle, is questioning also the wisdom of this legislation.

Having the second highest corporate tax rate—I notice my colleagues who spoke earlier said—well, I do not want to characterize how they speak. But the companies that are going overseas, yes, they are taking advantage of lower tax rates. Absolutely. But government would believe, in listening to them, that there are also lower labor costs as well. Yes, in some countries that is absolutely true. But in places such as Belgium and Ireland, I respectfully disagree. And we are not going to get a good solid workforce, paying good wages, but taking advantage of the 11-percent, 12-percent corporate tax rate versus a 35-percent corporate tax rate. But I have to take exception to the statement that our companies are going overseas to take advantage of the tax rates.

Well, yes, this is a global economy. We are fighting a battle here. And when China can do the things they are doing and basically provide—well, let’s step back. I remember growing up, and you would look at space exploration, roads and bridges, and teachers, and all that, R&D tax credit money, all that great stuff we would use to lure business. I am the 41st Senator, but other parts of the world here. Do you know where that is now? It is all debt service to China. So when I see and when I speak to the companies back home in Massachusetts, and they say: We need A, B, C, and D, I am like, we have no money. It is all in debt service to China right now. I would love to give it to you.

So how do we get our financial situation moving forward? We are not going to do it by having the tax cuts expire. We needed to address the tax extenders. We cannot play games and push it off and push it off. How about the death tax? Oh, my God, how many billionaires have died and we have not gotten a penny? Good for them. One over on the government. But is it good for the Federal Government to not get a piece? I am all for people getting money, but we have not even addressed the death tax.

I remember in my first caucus, when I went in, we were talking about it, and in the second caucus, the third caucus, the fourth caucus, and on and on. It is time to kind of come together to solve some real problems so tax planners and
families can kind of get their planning done. It is all about uncertainty. The reason we are in part of this mess is because of the financial uncertainty associated with the continued overregulation, the fear of more taxation, the fear of governmental interference, and the things we are doing to. You can go on and on and on.

So as I said, what is the point? Why even bother getting out of bed?

Mr. President, may I ask, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes 20 seconds.

Mr. BROWN of Massachusetts. Six minutes 20 seconds.

Mr. President, I am fading fast, and I would ask if my colleague wishes to take the remaining part of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I thank my colleague from Massachusetts and I thank this body for giving me a chance to get up here as a common man to try to do the best he can for the people of Massachusetts and the people of this country, and he knows in the short time he has been here that this system is broken. It is not working for American families. It is why Americans are so upset at their government.

It is not America that is broken. It is the government that is broken—a government that is now saying: We do not want you to profit. We do not want the business to succeed, sending all the messages that say America is not open for business, with too much regulation, too much taxes, too much spending, too much uncertainty, too much of Congress pulling these big levers on the economy that stops job creators in their tracks. They will not hire. Worse still they will not hire.

So when Caterpillar sends bulldozers to India, they are going to be taxed more, which is going to hurt the folks in this country who are building bulldozers. You can apply that to any business that is doing work overseas. We do not need to be discouraging exporting. We need to be encouraging exporting. To encourage exporting you face the risks. We get a huge return on investment. That is what we should be doing. But that does not make a nice sound bite. That does not sound good right before an election.

We should not be imposing more taxes on businesses that are trying to create jobs overseas which employ more people in this country. That is uncompetitive. That does not make any sense. What we should be doing is reinstating these tax cuts that have been around for 7 and 9 years respectively and not raising taxes in the middle of a recession. Can you imagine that we are going to go back for the next month and businesses in our country are not going to know what their tax rate is next year. And people wonder in this Chamber why people are not hiring. Because there is too much uncertainty. They do not know what their taxes are going to be.

Do you think what businesses want? They want a level, fair playing field, and they want predictability. All this government does, all this Congress does, is change the rules every couple months to make things unpredictable.

I heard my colleague from New York talking about the fact that the last decade was lost to the middle class, that they lost wages, that they actually went down, not up. That is something that appeals to all of us. But government is not going to be the solution to that problem. The government is not going to fix that. The private sector is going to fix that.

Why are we demonizing business? Why are we demonizing profits? This has never been a country where we said we are going to bring people by pulling other people down. This has been a country where we said we will give you the opportunity to succeed, and then you can be rich too someday.

That is the American dream. That is what we are doing for every other country in the world. We look on these other countries such as India and China and say, look, they are going to overtake us. They are more competitive. They are not playing by the rules. They are doing things cheaper in those countries, opening call centers, stealing American jobs.

Let me tell you, I have had the opportunity to travel some of these countries in my stead as a Senator. And on its best day, India is not as good as we are on our worst. There is nothing America can’t do. There is nothing Americans can’t do.

Let’s say that is failing America now is this Congress and this government. What we should be doing is creating certainty. What we should be doing is approving the three free-trade agreements that we still have outstanding with Colombia, Panama, and South Korea. That would get Americans back to work. What we should be doing is cutting the payroll tax across the board for every employee and every employer. Let’s cut it temporarily by 3 percent. Let’s give every employee a 3 percent raise every month. And if they raise another 3 percent more that they can use to hire new employees, buy new equipment, and get Americans back to work.

People in this Chamber are willing to work across the aisle to be problem solvers. I did that on the business bill because it was the right thing for Florida, and it was the right thing for this country.

Let’s not demonize each other. Let’s not demonize American business because what we need in this country is what creates jobs. We don’t need to create more government jobs. We need to create more private sector jobs. That is what is going to get this economy back up and running.

What I fear is what Senator Brown talked about and his notion of why you get up in the morning. Is the next Bill Gates who started Microsoft, is the next Hewlett Packard who started that company in their garage—the next innovator, the next entrepreneur—just going to say: Look, there is too much taxes, too much regulation, too much uncertainty; I am not going to go pursue that idea. Have we taken away the American dream? As someone just recently said to the President in a town hall meeting: Is this my new reality? Is the American dream lost?

It is not. We will get through this. But we are only going to get through this when we realize that government is not the problem. The problem is the private sector is the creator of jobs. Our obligation is to have regulation for it to be fair, to make sure people don’t cheat; otherwise, our job is to get out of the way and let business succeed to employ our people and allow them to achieve their dreams. This bill does that. It makes us less competitive. It will hurt jobs.

What we should do is reinstate the tax cuts to create certainty and not raise the taxes in the middle of a recession. We should know American business will approve the free-trade agreements, and we should focus every day we are here on jobs, not on campaign election laws,
The American people are hurting. The people in my State are hurting badly. It is the worst recession that anyone can remember in Florida—the worst recession that anyone can remember. Unemployment is near 12 percent. In some cities it is 14 percent. When we figure in the underemployed, it is more than 20 percent—people who want to work but can’t. Let’s give them certainty. Let’s not raise taxes on those who look sure they are about to be a level playing field for business so business can do what business does best, and that is create jobs.

With that, I see my time has expired.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Thank you, Mr. President.

I have found it interesting, having the opportunity to spend this evening listening to colleagues on the other side of the aisle. A lot of things have been talked about except the bill we are going to be voting on tomorrow. We certainly want to focus on the legislation. We have an opportunity to vote on together tomorrow to decide whether we are going to take up a bill that will stop shipping our jobs overseas. That is what this is about. We want to make things in America again and stop the incentives for shipping jobs overseas.

I also wish to indicate that today, talking about certainty—and I agree with my friends on the other side of the aisle that we need economic certainty. I agree with that. It would be so helpful if everything was not filibustered and there wasn’t sand thrown in the gears at every turn when we are trying to move forward and create economic certainty, making it take much longer in terms of trying to get to economic certainty. But I agree, and we agree, that we need certainty.

I wish to commend the Senator from Florida for working with us on the small business jobs bill that was just passed. The previous speaker said we need bonus depreciation. Well, but that particular Senator and the majority of the Senators voted against that in the small business bill. We need to extend expensing provisions, we were told a while ago. Well, the majority of Republican members voted against that. We need tax cuts for small business, we were told. Well, we just had a bill with $12 billion in tax cuts for small businesses that the majority of the Republicans voted against. Again, with all due respect to my colleague from Florida who reached across the aisle and helped make that happen—and we are very grateful—but I have been listening all evening to people talking about how we need tax cuts who just voted against tax cuts. They have talked about how we need certainty in those areas where we need certainty is in small business lending, and we have just created that.

In fact, tomorrow, we are told, the SBA is going to provide about 1,400 loans for small businesses to be able to grow and expand and hire people—tomorrow—because of what was signed today. So that creates a little bit more certainty. We certainly need more of that. I am all for creating the kind of level playing field that was talked about as well.

We want to export our products, not our jobs. But at every step of the way, from the 18 months ago to focus on manufacturing—making things in America, clean energy, advanced battery technologies, jobs and infrastructure—from that time until now we have seen nothing but delay tactic after delay tactic after delay tactic, slowing down the economic certainty that colleagues are now talking about this evening. So we want that certainty.

We want certainty for middle-class families in this country who have been torn apart by the fact that we have lost jobs. We have lost 4.7 million manufacturing jobs in this country under the policies of the last administration that now, we were told last week, they want to do again. The proposals offered by our Republican colleagues are exactly the same proposals that cost my State 1 million jobs. We are not interested in going back to that. We want to keep on a course that is going to get us out of the hole.

So what is this bill about? I will soon turn this over to my colleagues to speak as well. What are we really talking about tonight? We are talking about doing three things that will bring jobs back that have been lost overseas. These jobs have been lost to China time and time again. They have been lost to India, lost to Brazil, lost to Mexico, and lost to many other countries because of a system we have that doesn’t have a level playing field for American businesses and our trade laws, having some trade agreements that are not fair, and then having incentives that reward companies to write off their costs here while the jobs are shipped overseas. So we want to stop that.

This bill, in fact, would prohibit a firm from taking any deduction, a loss or credit, for amounts paid in connection with reducing or ending the operation of trade or business in the United States and moving it to another trade or business overseas. What is that about? Well, we don’t think American taxpayers should have to pay the bill through a deduction or a credit while their jobs are being shipped overseas. Companies shouldn’t be able to write that off their taxes.

We are also saying through this bill that we want to end the Federal tax subsidy that rewards U.S. firms that move their production overseas. Finally, we want to want to provide a carrot to say to companies that close downs operations and brings jobs back—and we have success stories like that to tell of companies that are doing that—but if they do that, close operations in the next 3 years, bring the jobs back, they will get a 2-year payroll tax holiday. So they will get a tax cut if they bring jobs back.

That is the simple bill. It is very simple, and very straightforward. We want to take away the incentives to ship jobs overseas—the subsidies that cause Americans to lose their jobs—turning around and then subsidizing the jobs overseas, and we want to create incentives to bring jobs overseas. That is what this is about. This adds to what the President signed today in terms of the small business bill that creates jobs. This is another step in our effort to make sure we are focusing on American jobs.

We want to make sure we are making it in America again. It is no surprise we have lost the middle class as we have lost manufacturing. Our ability to have good-paying American jobs is built on the premise of the proposition that says we are going to make things in this country. We are going to make things. We are going to grow things. We are going to add value to it. That is what has created the middle class of this country. We are losing that. People are losing their jobs, losing their futures, their ability to care for their families, as we are seeing these jobs shipped overseas. This bill is about bringing them back. It is one piece of the puzzle. Take away the tax deductions and bring them back. That is what this is about.

Tomorrow, the question is, Do you want to debate it? Do you want to make progress to the bill? It is not final passage; it is voting to move to the bill so we can have the debate about creating that certainty and creating jobs and making things in America again.

I see my friend from Rhode Island, and I wish to turn things over to him because I know he is a passionate advocate for jobs, as I am. We often share, unfortunately, the same kind of concerns about jobs in Rhode Island and Michigan. I know that jobs from Rhode Island cares passionately about bringing those jobs back to America.

The PRESIDING OFFICER (Mr. Durbin). The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, let me first thank the Senator from Michigan who has worked so long and hard on this. We do, indeed, have in Rhode Island the distinction of being in the top three or four States for unemployment for month after month. Rhode Island is still hovering near 12 percent unemployment.

For a State that was once the manufacturing capital of the world, for a State that was once the place where the industrial revolution was sparked off, to be in this situation is very painful for a lot of Rhode Islanders, and it is particularly painful and frustrating to have that situation exacerbated by our country’s tax and trade laws. At last, we are getting around to doing something about it.

So I am here today in strong support of the Creating American Jobs and
Ending Offshoring Act. I wish to speak a little bit about the bill itself because one of the things I have noticed about my colleagues on the other side is that they have spoken about anything and everything. They have spoken about taxes. They have spoken about the deficit. They have spoken about wages. They have spoken about every economic issue they can bring to mind, but they haven’t spoken about this bill. Nobody has said this is a bad piece of legislation; they just don’t want to get their face in front of the next speeches about macroeconomics rather than look at this bill and how it will help. It is a shame because we are just trying to get to this bill.

Last week, Leader Reid made a procedural motion that the Senate take up this legislation to address the epidemic of companies laying off American workers and moving their jobs overseas.

I was just in a facility in Rhode Island a few weeks ago and there were machines running and there were people working. But if you walked around the machine shop floor, you could see marks on the floor marked off in tape with holes where bolts had been taken out. Those machines that had been taken out of a Rhode Island factory and shipped to South America so that South American workers could work those machines and sell the exact same products that had been made in Rhode Island back into America so that South American workers could work those machines and sell the exact same products that had been made in Rhode Island into America.

So this is a very real and practical problem we have to face. With the kind of unemployment we have still in this country, I hope every one of my colleagues, Republican as well as Democrat, will acknowledge that this is a topic that is worthy of debate in the Senate.

Senator LeMieux from Florida was just here. He is a very distinguished Member of this body, and I consider him a friend. He came forward with a great list of ideas he believed we should be considering in order to improve our jobs posture and move America forward. Those were all fine ideas, and every single one of them could have been offered as an amendment if he would vote yes to get to this bill.

Where we are is the Republicans saying we are not even going to discuss this piece of legislation. So every good idea or what they consider to be a good idea about tonight, bear in mind their votes will prevent them from offering amendments to implement those very ideas that they are claiming are good ideas.

This is a basic, smart piece of legislation. The Creating American Jobs and Ending Offshoring Act would close some really perverse loopholes in the Tax Code that, right now, reward American companies for moving American jobs overseas. The law, right now, permits companies that close down American factories and offices and move those jobs overseas to take a tax deduction for the costs associated with moving the jobs to China or India or wherever. Those machines that were unscrewed, unbolted from that Rhode Island shop floor and shipped to South America so that South American workers could run them—the cost of that was a tax deduction subsidized by the American taxpayer. That simply doesn’t work.

If we want to send a message that we are tired of sending American jobs offshore, then giving people a tax deduction for doing that should be a practice that ends. We would end those taxpayer subsidies for the expenses of moving American jobs overseas.

That taxpayer subsidy is just the cherry on top—the big prize—for companies that are offshoring jobs. The real money comes from their ability to defer paying taxes on profits they earn overseas. Here is an example. Let’s say a company manufactures a boat in my State of Rhode Island. That company pays taxes on its profits from selling that boat every year that it earns a profit. Let’s say a company right across the street—a competitor—that also makes boats, and it decides that it is going to take its manufacturing and move it overseas to China. They will make the same boat but will move it to China. China will sell it back to the same U.S. customer. They are identical except that one company moved its jobs overseas. The company that moved its jobs overseas is not obliged to pay income taxes on its profits from its overseas, manufactured boat at that time. It can strategically defer and maneuver its taxing to pay it later and use the money in the meantime instead of having to borrow capital or pay it at a time when it has offsetting deductions. This deferral gambit can be quite lucrative for the companies that move jobs overseas, and it can be quite costly for taxpayers. So we close this loophole too.

These tax loopholes that reward shipping jobs overseas have served as powerful incentives for the companies that move jobs overseas, and it can be quite costly for taxpayers. So we close this loophole too.

These tax loopholes that reward shipping jobs overseas have served as powerful incentives for the companies that move jobs overseas, and the numbers bear this out. According to our Bureau of Economic Analysis, from 1999 to 2008, the number of U.S. employees of multinational companies declined by nearly 2 million—1.9 million jobs—out of America from multinational corporations. During the same period, these same companies increased their foreign employment by 2.4 million—2 million jobs out of this country and into foreign countries by American profit. Let’s say there is a company that also makes boats, and it decides right across the street—a competitor—that it is going to take its manufacturing and move it overseas to China.

Some people think that is a wonderful idea. These are our friends at the U.S. Chamber of Commerce. This is a letter they sent on September 23 to the Members of the Senate from the Chamber of Commerce of the United States of America:

Replacing a job that is based in another country with a domestic job does not stimulate economic growth or enhance the competitiveness of American worldwide companies.

This is our U.S. Chamber of Commerce, the same entity that represents all the big multinationals—Exxon, BP, the big insurance companies, the big banks, the folks charging you a 30 percent interest rate on your credit card. That is whom these people represent. Again, they bring this idea to the Senate.

Replacing a job that is based in another country with a domestic job does not stimulate economic growth or enhance the competitiveness of American worldwide companies.

I will tell you what it does. It will enhance the heck out of the economic growth of the family who gets that domestic job. It will enhance the heck out of the economic competitiveness of a neighborhood that doesn’t have a factory shipped overseas so that the company can move the jobs offshore. I don’t know whom these people are interested in—the U.S. Chamber of Commerce—but it is definitely not the American family, the American neighborhoods or the American worker. “Replacing a job that is based in another country with a domestic job. . . .” That is really astounding.

So we need to get to this bill, and we need to begin to nullify the decades-long decline in U.S. manufacturing. This cannot do everything, but it would be a first step.

When we were growing up, the vast majority of the clothes we wore, the cars on our roads, the food on our tables was all produced in the United States. That time has passed, that time is gone, that time is no more. Today, you would be hard-pressed to find items in a department store that were made domestically. Just go to Walmart—it is China-mart. It is not just consumer goods either. Earlier this year, I had a meeting with an organization in Rhode Island that runs one of our major ports. Together with Senator Reid, we were able to argue successfully for one of the TIGER grants in the economic recovery bill to help support this port so that they can grow jobs and add to the business that comes to Rhode Island. Part of what they need to do is purchase and install a big cargo crane, a port crane to unload the goods that come in and stack them so they can go onto trains and trucks and off into commerce. Guess what we discovered. We discovered that the Rhode Island corporation didn’t want to buy the multimillion-dollar crane from an American company. Do you know why that is? That is because no American company any longer makes a port crane. No matter how much you want to buy a crane for an American port from an American company, you can’t do it. We don’t make them any longer. Something has gone badly wrong when you go to the biggest retail outlet in America and you can’t buy American-manufactured products—it is 50-plus percent foreign owned—and when you can’t buy a crane and when the crane that is unloading the Chinese goods cannot even be made in America any longer.
So we need to get to work. We need to support our American manufacturing base, and we need to take the wrinkles out of the Tax Code that make it advantageous for a company to move those jobs overseas, with tax-payer subsidies and competitive advantage. We need to be smart in this process, and we need to have nothing to say about this bill but only general bromides—I have had so many bromides that I am ready for some Bromo-Seltzer. They won’t talk about this bill. The reason is that it is a good bill, and it would help American jobs, and they don’t want anything to pass now. I urge them to change their minds. It is too important to let this opportunity pass.

I yield the floor.

I see my colleague from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I have to say to the Senator from Rhode Island, we will get some of that water that fizzes because we will need it as the night goes on.

The point is simple. To the American people, to the Alaskans who are watching, this process we go through here, which is really a way of getting us to a bill—that is what we are trying to do so we can have a debate across the aisle, have a discussion about what is the right policy when it comes to jobs and how to make sure we do the right thing regarding our economy. Instead of having to debate, they would rather stop the motion to proceed and end the story.

I rise this evening for the same reason many other folks are talking tonight of the American Jobs and Ending Offshoring Act. I believe we should reward companies that keep Americans working here in our country.

As a former mayor, and really longer than any time I have served in public office, as a small business owner—that is what I spent my life around. I understand the impact of legislation and what it means for a business owner. As I have said in the Budget Committee and elsewhere, I am probably one of the few who have filled out—in one of the debates we had a couple weeks ago—1099 forms. I understand what it means for small businessperson to spend the time to try to build their business and what it means.

Tonight, in my view, it is unacceptable that we currently reward companies that ship American jobs overseas while businesses that are doing their best to provide decent wages and benefits are struggling just to make payroll. We should be proud of businesses that don’t just keep but create jobs here at home. It makes no sense to me, when you think about it—you have business A and business B both doing the same product. But the one that decides to reinvest in America, to invest in Alaska, who competes against the person across the street who decides to close up and go overseas, who gets tax breaks and special benefits and subsidies? I believe here is the case I see who is working hard every day to keep Americans working is at a disadvantage. It is clearly time that we stop shipping our jobs overseas and make it right here in America.

American Jobs and Ending Offshoring jobs have been some of the hardest hit by the economic downturn. States that have significant manufacturing bases are those with the highest unemployment rates.

This legislation is a commonsense response to our job crisis. Under the bill, payroll tax relief will be rewarded to companies that hire employees domestically during a 3-year period, beginning now. The tax cut would come in the form of a tax deduction of wages earned paying Social Security payroll taxes on each job that was brought back home to this country for the next 2 years.

This legislation also eliminates tax breaks for companies that move jobs overseas, because what we are trying to do is keep people who might be watching are saying: What do you mean, we give companies tax breaks for moving jobs to another country and not reward people who work here? That is the case. We need to encourage businesses to spend their deductions on employees that close their factories in the United States and move them overseas. I don’t know about all other taxpayers, but I am taxpayer and a businessperson, and that seems ridiculous that we would give a tax break to companies that ship jobs overseas. Taxpayers subsidize these companies. As I mentioned, our tax laws currently reward these companies in many different ways for moving jobs overseas.

Here is a startling reality—the data. We hear a lot from the other side, and they are kind of good sound bites and phrases. They won’t talk about this bill but only general bro- mides because we will need it as the night goes on. That HIRE Act goes right by people. That HIRE Act happens. The national debt doubled. When President Obama was sworn into office, just before he was sworn in, over half a million jobs were lost just in the first month alone he was sworn in. We have to stop shipping jobs overseas and make it right in America.

I implore my colleagues on the other side to allow the debate, to allow us to proceed. It is not complicated. Everybody, on both sides: Allow the debate, to allow us to have our businesses thrive and move forward. I ask our colleagues on the other side: Allow the debate to occur. As a small businessperson, as a Member of the Senate, I ask them to step to the table and let us move forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. CASEY. Mr. President, I commend the remarks by the Senator from Alaska and before him the Senator from Rhode Island and others tonight. One of the reasons we are here tonight is because we have been trying, over the last 18 months, to get some of our colleagues on the other side to join us in job creation strategies. We had almost no Senators—at the time just three on the other side—join our side to support the American Recovery and Reinvestment Act. That legislation, which we passed in the early part of 2009, has created—one rather conservative estimate—about 3 million jobs. But in an economy where we lost 8 million, we have to keep going and put in place other strategies.

We passed the HIRE Act not too long ago. When we pass a lot of legislation, it goes right by people. That HIRE Act provided a payroll tax credit for the hiring of an individual who has been unemployed for 60 or more days. That has created a number of jobs.

We just passed a bill, and the President signed into law today, the Small
Business Jobs and Credit Act, a direct infusion to small businesses across the United States of America—$12 billion in tax breaks directly to small businesses.

In addition to that, there is a loan fund for small banks, community banks, to provide most of the capital to most of the businesses in America because we know small businesses create most of the jobs.

We have been taking step after step. None of it is perfect. Not one bill will lead to a full recovery. But if we have been trying to push this economy—the image of coming out of the ditch we have all used is a good analogy. One bill is one push. One bill is not enough to get this economy fully recovered, but we have been making progress.

Today we come together, once again, to try something we have advocated again: to try to take some steps to stop the offshoring of jobs, the shipping of jobs overseas because we have the wrong place.

What does this bill do? What does the Creating American Jobs and Ending Offshoring Act do? Basically, three things. It is not tremendously complicated for those who are running businesses critically important to our jobs, our families, and our future.

No. 1, it would create a payroll tax holiday for companies that return jobs to the United States from overseas. What happens there is we would be providing relief from the employer's share of the Social Security payroll tax on wages paid to new U.S. employees performing services in the United States.

It is as simple as that. We should have done it a long time ago. We could have taken these steps before, but our friends on the other side, just like they have blocked almost every job creation bill I can think of in the last 18 months, they blocked this over and over again.

No. 2, this bill would end subsidies for plant closing costs. As some of my colleagues have noted, the bill would prohibit a firm from taking any deduction or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the United States, starting or expanding a similar trade or business overseas. We have made it easier. We have created incentives to ship jobs overseas instead of creating disincentives for companies to send jobs overseas. It would end that basic tax that helps jobs overseas.

No. 3, we would end tax breaks for runaway plants—plants that go overseas and have no penalty applied to moving jobs overseas, instead of keeping jobs in America.

I mentioned before the HIRE Act, legislation that provides a payroll tax credit for the hiring of an individual who has been unemployed for 60 or more days. We are building on that policy. I commend our majority leader. Senator EMN, our Presiding Officer, Senator SCHUMER, and others for building upon what we did in the HIRE Act earlier this year and introducing this bill to provide employer relief from the employer share of the Social Security payroll tax on wages paid to a new U.S. employee performing services here.

In other words, we are trying to bring jobs back to America. We are not saying this bill is a magic wand that solves all our economic problems. One bill is not a recovery, but it is another forward step in furtherance of that objective to lift this economy completely out of the ditch it has been in for far too long. We know this did not happen overnight. We know our economy did not fall into a ditch overnight. We also know the loss of manufacturing jobs did not just occur over the last several years. It occurred over many years. But if you just look at the last 9 or 10 years, I know, for example, in Pennsylvania we lost over 200,000 jobs. The best estimate is 207,000 jobs just in Pennsylvania that are categorized as manufacturing. The State it is a lot higher than that. My colleague from Michigan, Senator STABENOW, was remarking earlier that Michigan had lost over 1 million jobs in that time period, just manufacturing jobs.

It is as simple as that. We should have done it a long time ago. But if you just look at the last 9 or 10 years, I know, for example, in Pennsylvania we lost over 200,000 jobs. The best estimate is 207,000 jobs just in Pennsylvania that are categorized as manufacturing. We also know the loss of manufacturing jobs did not just occur over the last several years. It occurred over many years. But if you just look at the last 9 or 10 years, I know, for example, in Pennsylvania we lost over 200,000 jobs. The best estimate is 207,000 jobs just in Pennsylvania that are categorized as manufacturing.

It may not have been perfect or far enough, but it would be $236 billion when President Clinton left office. He handed that to President Bush.

When President Bush handed over the keys to the White House, so to speak, to President Obama, the $236 billion in surplus was now $1.3 trillion in deficit. That is where we are today. We are still recovering, despite a lot of steps, to have a full recovery. But we cannot fully recover if we are going to continue to subsidize the movement of jobs overseas.

It is hard to comprehend the strange and almost perverse policy that has led to taxpayers being called upon because of the policy that has been in place for far too long, the policy where the taxpayers are subsidizing the costs associated with the closing of a plant in the United States of America. We should not just lament that, we should end the policy and instead have taxpayer support strategies that actually pull jobs back from overseas.

You cannot lament the movement of jobs overseas and then just keep voting the way some are voting against tax policies to keep jobs in America. You cannot lament job loss and vote against, whether it is a Recovery Act, the HIRE Act or the Small Business Jobs and Credit Act. You cannot say you support small businesses but critically important to our jobs, our families, and our future.

What tomorrow's vote is about is not that bill itself. Tomorrow's vote, of course, as everyone knows, is just to get over that procedural hurdle to allow us to debate. Having a debate about ending the offshoring or doing everything we can to end the offshoring of jobs is worthy of at least 1 or 2 or a couple hours of debate.

Someone over there might say: I am not going to vote for this bill for this or that reason. They have that right. It is hard to say I do not like the fact we have been shipping jobs overseas and have tax policies that incentivize that, and we have other policies we can put in place to change that and to turn that around and move in the direction...
of helping taxpayers keep jobs here and pulling jobs back from overseas, you cannot say all that, make a big speech on it and then vote the next day and say: I am not only going to vote against the bill but vote against any debate on the bill. That is a pretty hard argument to make. I am not sure there are many people who can make it with a straight face and with any degree of integrity.

We will see what they do. We will see if they are going to vote against debating our jobs—I say our—voting to stop jobs from going overseas. I hope the other side does not do what it did with the small business bill and say it supports small businesses and then vote against tax cuts and vote against community banks to help our small businesses.

Maybe tomorrow there will be a flash of light in the darkness of this political debate and folks on the other side will let us debate this for a couple hours and then maybe we will see the right way to stop jobs from going overseas. But we will see. We will see what the morning light brings.

Mrs. FEINSTEIN. Mr. President, I rise today to support the Creating American Jobs and Ending Offshoring Act. The bill before us utilizes both carrots and sticks. It ends certain egregious tax breaks that promote the movement of American jobs overseas, and provides a payroll tax holiday to companies that relocate jobs back to the United States.

I thank Senators DURBIN, REID, SCHUMER and DORGAN for their initiative in crafting legislation designed to create more jobs on American soil at a time when it is critical. This bill is a positive first step.

Robust industry has always been the hallmark of American competitiveness. It once was that you could see the “Made in America” logo on the back of a shirt, on a dress, and knew that you had a product that was both high quality and safe.

But from 2000–2005, U.S. companies slashed 2.1 million jobs in the United States while hiring 784,000 jobs internationally. This is from the Bureau of Economic Analysis.

Examples are the iconic little red wagon company, “Radio Flyer” eliminated half its workforce in Chicago and moved its manufacturing operations to China. Starbucks cut its workforce by roughly 20 percent, closing factories across the country and outsourcing its manufacturing work to Latin America in 2002; Motorola has laid off over 40,000 workers and invested more than $3 billion in China in 2001; and, recently, the Whirlpool Corporation announced it will close a refrigerator plant in Evanston, Indiana, resulting in the loss of hundreds of jobs. Whirlpool has plans to open a new plant in Mexico.

And Hewlett Packard is opening a global call center in Chongqing, China. The reason for all these relocations is plain and simple—less cost.

Today, the “Made in America” logo is not often seen, and with its demise has been the loss of good American jobs.

It is time for the United States to refocus on a modernized industrial policy that promotes global competitiveness and creates jobs for the American people.

And this legislation is a beginning.

Simply put, we can no longer hang our hats on American innovativeness and ingenuity; while ignoring the steady stream of jobs lost to our international competitors.

Americans have always had good ideas, but those good ideas used to lead to good jobs here in the United States. Now, our intellectual property contributes to abundant employment opportunities, but many are often in other countries.

American industry has changed the world. From the automobile to the airplane, from landing a man on the moon to developing the Internet, the combination of revolutionary ideas and productive labor has been the backbone of American strength for generations.

But we should not be willing to cede that essential part of our American identity. We must do everything in our power to ensure that American ingenuity creates American jobs.

Statistics indicate that we are losing our identity as a manufacturing power—and that is bad news for this country.

Thirty years ago, the founder of Sony told me: “When America ceases to be a manufacturing power, she will become a second-rate power.”

I have thought a lot about those words over the decades as I have seen American jobs go overseas.

The slow bleed of manufacturing jobs has been a stark reality for years. From 1997 to 2007, the U.S. manufacturing sector lost 3.5 million jobs—an estimated 20 percent of the workforce.

But offshoring isn’t just a problem for factory workers, it is having a growing impact on the service sector as well. Today, even highly skilled workers can no longer rely on their education or training to obtain a job or have any measure of job security. It is estimated that 1.2 million white-collar jobs were sent offshore between 2003–2008; the Bureau of Labor Statistics estimates that half of service-sector jobs are currently at risk of being sent overseas; at the current rate, 25 percent of all U.S. jobs may be in danger of being shipped overseas in the next 10 years, from the CRS.

Several studies indicate that up to 250,000 American jobs may go overseas by 2015; and this includes highly skilled fields like computer science and mathematics, which are becoming increasingly vulnerable to being sent overseas.

The Creating American Jobs and Ending Offshoring Act is a first step toward addressing these trends. The bill provides a payroll tax break to companies that move jobs back to America—employer share—roughly 8 percent of salary—2 year holiday; eliminates the tax breaks that have provided incentives to companies to move production and jobs overseas—eliminates tax deduction, loss, or credit for costs associated with moving operation overseas; restructures the incentives that move production overseas, only to sell those products back in the U.S.

The time has come for Congress and the business community to come up with an industrial policy that will promote American competitiveness and create jobs.

While we have promoted trade and globalization, we have overlooked the negative effect it has on job creation here in the U.S. Many of our businesses have thrived in the modern global marketplace, but our policies here at home lag behind.

Free trade may reduce the price of goods, but this doesn’t do much good if unemployed Americans can’t afford to buy them.

We need to look at the structure of taxation, of education, and of health care. We need to decide what must change in order to achieve our goals.

In August I spoke to a gathering of the top business minds in Silicon Valley. With California’s unemployment rate lingering at 12.4 percent, much of the discussion turned to maintaining American dominance in a way that would engender job creation in my home State.

I asked them to work with me to find common ground on these issues.

Today, I ask all of us in the Senate to do the same.

The provisions included in the Creating American Jobs and Ending Offshoring Act are a positive first step.

However, to profoundly impact the future of American industrial competitiveness, we cannot rely solely on carrots and sticks.

We as a government must lay a stable foundation upon which American business ingenuity can foster top down growth. And the business community must focus not only on the bottom line. It must re dedicate itself to the pursuit of a thriving American economy and labor force.

Bottom line: These are the things we must do if we are to maintain America’s position as the driving force of the global economy. This legislation is a good first step down this road.

Mr. CARDIN. Mr. President, the Senate will have a cloture vote shortly on the motion to proceed to S. 3816. I hope that we will overcome a procedural roadblock to the Senate considering this legislation and proceed to the bill and pass it. While the National Bureau of Economic Research, NBER, has determined that the recession is over, it is clear that we have much more work to do getting Americans back to work. America needs the NBER’s recession lasted 18 months, which makes it the longest of any recession since World War II.
It is important to note that NBER did not conclude the economy has returned to operating at normal capacity. Rather, NBER determined only that the recession ended in June 2009 and a recovery began in that month. According to NBER, economic activity is typically below normal in the early stages of an expansion, and it sometimes remains so well into the expansion.

Aggregate employment frequently reaches its trough after the NBER trough for overall “economic activity” and the 2007–2009 recession is no exception. That is why this jobs bill is critically important. The economy is still fragile; everyone knows that. So let’s do something about it.

S. 3816 has incentives to create jobs here in America and disincentives to moving American jobs overseas. Earlier this month, the U.S. Department of Labor issued a Trade Adjustment Assistance, TAA, petition brought on behalf of human resources personnel at Hewlett-Packard in 10 different States, including Maryland—Ellicott City—that have seen their jobs shipped to Panama. Now, if H-P employees have questions about their pay or their leave or their benefits, they have to call Panama. It is exactly that type of shipping jobs offshore that we need to prevent.

S. 3816 removes tax incentives that allow companies such as H-P to eliminate jobs here, outsourcing that work with the products or services consumed in the U.S. market. Just since the beginning of 2007, the Department of Labor has certified 50 TAA petitions involving laid-off workers who live in Maryland.

In many cases, the firms involved in these certifications had U.S. tax incentives for jobs overseas. S. 3816 helps to eliminate those incentives.

To encourage businesses to create jobs here in the United States, the bill allows businesses to skip the employer share of the Social Security payroll tax for up to 2 years on wages paid to new U.S. employees performing services in the United States. To be eligible, businesses have to certify that the U.S. employees are replacing an employee who had been performing similar duties overseas.

This payroll tax holiday is available for workers hired during the 3-year period beginning September 22, 2010. The Social Security trust fund will be made whole from general revenues, a provision that costs $1.09 billion over 10 years.

The bill eliminates subsidies that U.S. taxpayers provide to firms that move facilities offshore. It prohibits a firm from taking any deduction, loss, or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the U.S. and starting or expanding a similar trade or business overseas.

This provision raises $277 million over 10 years.

The bill would not apply to any severance payments or costs associated with outplacement services or employee retraining provided to any employees who lose their jobs as a result of the offshoring. S. 3816 also ends the Federal tax subsidy that rewards U.S. firms for moving their production overseas. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign subsidiaries until that income is brought back to the United States. This is known as “deferral.”

Deferral has the effect of putting these firms in a competitive advantage over U.S. firms that hire U.S. workers to make products here in America.

The bill repeals deferral for companies that reduce or close a business in the U.S. and start or expand a similar business overseas for the purpose of importing their products or services for sale in the United States. U.S. companies that locate facilities abroad in order to sell their products overseas are unaffected by this proposal.

Ending deferral raises $92 million over 10 years.

I think there is a huge need and a great deal of merit in considering a bill to encourage American firms to keep their plants and factories here in America and to hire American workers.

Too many Americans are looking for work and can’t find jobs. The recession hasn’t ended for them. I hope the Senate will move forward on legislation that will keep jobs in America and put Americans back to work and begin to put this terrible recession behind us. It is time to ship American goods and services—not American jobs—overseas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BEGICH. Mr. President, the score is 10 to 0.

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

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

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a concurrent resolution with Senators permitted to speak for up to 10 minutes each.

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

INTELLIGENCE AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, the Congress is now close to passing and enacting an intelligence authorization bill for the first time since December 2004. Pending at the Senate desk is Senate bill H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, which the House passed on February 26, 2010.

On behalf of Senator BOND and myself, I have filed an amendment to this House bill, and have major-
Eight”—in place of the full membership of those committees, the basis of the limited notification will be reviewed in the executive branch within 180 days and reasons for continuation of the limited notification will be submitted to the Gang of Eight.

The amendment also adds text to require that in the case of a limited notification, the President shall provide to all members of the intelligence committees a “general description” of the covert action. This implements the idea first described by the Senate Intelligence Committee in 1980 that the limited notification procedure is to be used in extraordinary cases certain sensitive aspects of an intelligence activity; the purpose of the authority is not to shield entire intelligence programs from the oversight of the full intelligence committees.

Recent legislation from the Select Committee on Intelligence has included similar provisions to the requirement to provide to all committee members a “general description.” The committee’s bill, S. 1494, which the Senate passed unanimously in September 2009, included a similar provision, but the version of the bill passed in August 2010, S. 3611, did not.

Of note, the legislative language in this amendment makes clear that the general description of the covert action is to be prepared by the President to all members of the committees, consistent with the reasons for not yet fully informing all members of the intelligence committees. The administration agrees that this gives the President sufficient flexibility in extraordinary circumstances to protect sensitive national security information.

Finally, the amendment I am offering includes a new section, section 348, on access by the Comptroller General to the information of elements of the intelligence community. Both S. 1494 and H.R. 2701 included sections on audits of comptroller general agreements by the Government Accountability Office, GAO. No GAO provision was included in S. 3611 because, at the time that S. 3611 was reported and then acted on by the Senate, no agreement had been reached on a provision that would apply to both the administration and the Congress.

Section 348 represents a compromise that the Congress and the administration can support. It requires the Director of National Intelligence, DNI, to issue a directive governing GAO access to Defense special access programs. This directive is regarded as having resolved successfully the issues that the Department and GAO had previously encountered. As the DNI carries out the duties of this section, it will be important for him to be mindful of the manner in which individual departments with intelligence components have established procedures governing access by GAO. This is true for the Department of Defense as well as other departments, such as the Department of Homeland Security and its intelligence component, the Office of Intelligence and Analysis. We expect that the DNI will coordinate closely with the heads of such departments in order to ensure that the DNI’s directive resolves outstanding issues without disrupting GAO’s working relationships with such departments.

As written, this section would require the Director of National Intelligence to submit this directive to “the Congress.” The intent of this provision is to have this directive broadly available, in unclassified form or classified form as the case may be, to those committees with jurisdiction over the DNI, the 16 intelligence component of the intelligence community, the departments in which those agencies reside, and the GAO.

There are additional technical, typographical and conforming changes included in this legislation from S. 3611, the intelligence bill passed by the Senate in August 2010. This includes a change in section 322, the business system transformation section, in several places where an action was to be taken by September 30, 2010. Those actions are now required to be taken within 60 days and not by September 30.

In all other respects, the Feinstein-Bond amendment consists of exactly what the Senate has already passed by unanimous consent. The legislative history of S. 3611 is fully applicable to the provisions of this amendment that were added in this legislation. The legislative history includes the committee report, S. Rep. No. 111–223, and the floor statements and letters placed in the Record on Senate passage of S. 3611, see 156 Cong. Rec. S8795–799—daily ed., August 5, 2010. S. Rep. No. 111–223 has a detailed section-by-section description of the provisions of S. 3611, including a description of the reconciliation of House and Senate provisions from H.R. 2701, as it passed the House, and S. 1494.

I received today a letter from the general counsel in the Office of the Director of National Intelligence, Mr. Robert Litt, indicating that “the President’s senior advisors would recommend that he sign this bill if it is presented for his signature.” I will ask that this letter be printed in the Record.

As I noted at the outset, there has not been an intelligence authorization act enacted in nearly 6 years. Prior to December 2004, there had been such a bill every year since the creation of the intelligence committees in the late 1970s.

It is vitally important for the intelligence committees to pass an authorization bill this week. Failure to enact an authorization bill weakens congressional oversight and it denies the intelligence community appropriate updates in the law.

I would like to take a moment to recognize some individuals who have devoted enormous time and effort to reaching this point. First, Senator KIT BOND, the vice chairman of the committee, who has been fighting for this legislation with me in a completely bipartisan way since we began at the beginning of last year. Second, the members of the Intelligence Committee who have contributed important provisions in the bill, and have supported our efforts to keep the bill moving even in some cases where their provisions had to be dropped.

And finally, the staff who have crafted this bill three separate times and conducted negotiations with the House Permanent Select Committee on Intelligence, other offices in the House, the Office of the Director of National Intelligence, and the White House for more than a year. I would like to commend and thank my counsels: Mike Davidson, Christine Healey, and Alissa Starzak for their work. I thank as well Senator Bond’s counsels, Jack Livingston and Kathleen Rice.

While there is no classified annex to authorize funding levels in this bill, I appreciate the work begun by Lorenzo Goco and continued by Peggy Evans in putting together the annex that accompanies the authorization bills that passed the Senate last September and this August.

Finally, I appreciate the work of Tommy Ross, national security adviser to Majority Leader HARRY REID, for his substantial efforts to make sure that this legislation passed the Senate and the House.

I urge my colleagues to support this Senate amendment to the House bill. If we are able to reach unanimous consent on this measure, it will go back to the House for final passage and presentation to the President. I am hopeful that we can accomplish this prior to recessing later this week for the November elections, and urge support.

Mr. President, I ask unanimous consent to have printed in the Record the letter from Mr. Robert Litt to which I referred.

There being no objection, the material was ordered to be printed in the Record, as follows:
OFFICE OF THE DIRECTOR
OF NATIONAL INTELLIGENCE,
Washington, DC, September 27, 2010.

Hon. DIANNE FEINSTEIN,
Chairwoman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Hon. CHRISTOPHER BOND,
Vice Chairman, Select Committee on Intelligence,
Washington, DC.

DEAR MADAM CHAIRMAN AND VICE CHAIRMAN BOND: On June 10, 2010, the Director of OMB wrote to inform you that, on the assumption that it would be necessary to make changes to the S. 3611, the Intelligence Authorization Act for Fiscal Year 2010, the President’s advisors were recommending he sign the bill. The Administration has reviewed the proposed amendment to the Intelligence Authorization Act for Fiscal Year 2010 that contains similar language.

With these understandings, the President’s senior advisors would recommend that he sign this bill if it is presented to him for his signature.

The Office of Management and Budget advises that, from the standpoint of the Administration’s Program, there is no objection to the bill in the manner in which it was presented.

NOTICES OF INTENT TO OBJECT

Mr. GRASSLEY. Mr. President, I intend to object to proceeding to H.R. 4862, a bill that amends the Immigration and Nationality Act with regard to naturalization authority. H.R. 4862 would permit Members of Congress to administer the oath of allegiance to applicants for naturalization. I object to the bill because, according to administration officials, it would require Members of Congress to administer the oath of allegiance only at times determined by the Secretary of Homeland Security, notwithstanding the Senate Calendar or the legislative work that is required by Members of Congress. We need to understand what exactly this bill allows or requires and not just rush it through in the waning hours and minutes of this Congress.

Mr. President, I also intend to object to proceeding to the nomination of Norm Eisen to be Ambassador to the Czech Republic at the Department of State for the following reasons.

I object to the proceeding to the nomination because of Mr. Eisen’s role in the firing of the inspector general of the Corporation for National and Community Service. I have no lack of candor about that matter when questioned by congressional investigators. The details of Mr. Eisen’s role in the firing and his misrepresentations about that matter are detailed in the Joint Minority Staff Report of the House Committee on Government Reform and the Senate Finance Committee, dated November 20, 2009.

HONORING OUR ARMED FORCES

CAPTAIN DALE A. GOETZ

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Casey J. Grochowiak. Sergeant Grochowiak was serving in support of Operation Enduring Freedom in Malajat, Afghanistan. He was 34 years old.

A native of San Diego, CA, Sergeant Grochowiak graduated from Horizon Christian Fellowship Academy, where he met Celestina, his future wife, whom he married in 1995. After several years with a bachelor’s degree in Business Administration, Sergeant Grochowiak changed direction to commit his life to defending his country. He enlisted in the
Army in 2009, serving two tours in Iraq and two tours in Afghanistan—all with decoration.

During nearly 11 years of service, Sergeant Grochowiak distinguished himself through his courage, dedication to duty, and absolute commitment to his troops. Despite having received a medical waiver for his last tour in Afghanistan, Sergeant Grochowiak shipped out and fought on anyway, citing his obligation to protect his young soldiers.

Sergeant Grochowiak worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a loving father to his two children.

Mark Twain once said, “The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.” Sergeant Grochowiak’s service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America’s citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Grochowiak will forever be remembered as one of our country’s bravest.

To Edward and Barbara, Sergeant Grochowiak’s parents, Celestina, his wife, Matia and Deegan, his children, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Casey’s service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

STAFF SERGEANT KEVIN J. KESSLER

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SPC Faith R. Hinkley. Specialist Hinkley, assigned to the 526th Military Intelligence Battalion, based in Fort Lewis, WA, died on August 7, 2010, from wounds sustained during a firefight. Specialist Hinkley’s service was in keeping with this sentiment—by selflessly putting country first, she lived life to the fullest. She lived with a sense of the highest honorable purpose.

At substantial personal risk, she braved the chaos of combat zones throughout Iraq. And though her fate on the battlefield was uncertain, she pushed forward, protecting America’s citizens, her safety, and the freedoms we hold dear. For her service and the lives she touched, Specialist Hinkley will forever be remembered as one of our country’s bravest.

To David and Annavee, Specialist Hinkley’s parents, Matthew, her brother, and her entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Faith’s service and by your knowledge that her country will never forget her. We are humbled by her service and her sacrifice.

SPECIALIST FAITH R. HINKLEY

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Kevin J. Kessler. Sergeant Kessler, assigned to the 4th Infantry Division, based in Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his military vehicle. Sergeant Kessler was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 32 years old.

A native of Canton, OH, Sergeant Kessler enlisted in the Army in 2004, eager to serve his country. In 1996, he graduated from East Canton High School. After spending several years as a truck driver, Sergeant Kessler decided to commit his life to military service. He served three tours of duty: two in Iraq and one in Afghanistan, and all with decoration.

During his 6 years of service, Sergeant Kessler distinguished himself through his courage, skilful leadership, and perhaps most importantly, an unflagging dedication to his troops. Sergeant Kessler’s unyielding sense of duty was heightened still by the brave efforts of the soldiers under his command.

Sergeant Kessler worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a proud father. They remember that, from an early age, he loved football and cheered for his favorite teams, the Denver Broncos and the Cleveland Browns.

Mark Twain once said, “The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.” Sergeant Kessler’s service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America’s citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Kessler will forever be remembered as one of our country’s bravest.

To Sergeant Kessler’s father and stepmother, Lawrence and Sue, his mother and stepfather, Kristine and Rodney, his wife, Adrian, and his entire family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Kevin’s service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

PRIVATE FIRST CLASS DIEGO M. MONTOYA

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of PFC Diego M. Montoya. Private Montoya, assigned to the 88th Military Police Brigade, based in Fort Hood, TX, died on December 2, 2010, of injuries sustained from indirect fire. Private Montoya was serving in support of Operation Enduring Freedom in Laghman Province, Afghanistan. He was 20 years old.

A native of Texas, Private Montoya graduated in 2005 from Taft High School in San Antonio. He was an active participant in the school’s ROTC program, and he always looked forward to the day when he could finally wear a service uniform. Private Montoya enlisted in the Army after graduation, and he deployed for Afghanistan in April 2010.

During his 13 months of service, Private Montoya distinguished himself through his dedication to duty and extraordinary strength of character. Even as an ROTC student in San Antonio, Private Montoya’s instructor recognized his remarkable maturity and leadership, and perhaps most importantly, an unflagging dedication to his troops. Sergeant Kessler’s unyielding sense of duty was heightened still by the brave efforts of the soldiers under his command.
Private Montoya worked on the front lines of battle, serving in the most dangerous areas of Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a loving father to his three children. They remember his warm nature and broad smile.

Mark Twain once said, “The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.” Private Montoya’s service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America’s citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant West will forever be remembered as one of our country’s bravest.

To his parents, his brothers and sisters, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Diego’s service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

STAFF SERGEANT MATTHEW J. WEST

Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG Matthew J. West. Sergeant West, assigned to the 71st Ordnance Group, based in Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his military vehicle. Sergeant West was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 36 years old.

A native of Gaylord, MI, Sergeant West graduated from Northern Michigan University with a bachelor’s degree in 1997. After returning home for several years, Sergeant West enlisted in the Army in 2004 and served three tours of duty: two in Afghanistan and one in Iraq, and all with decoration.

During his 6 years of service, Sergeant West distinguished himself through his courage, dedication to duty, and willingness to take on one of the most dangerous and skillful jobs in the Army—defusing bombs. Even as a student at Gaylord High School, Sergeant West exhibited this same extraordinary character by assuming any role needed of him on the football field. Although he was one of the team’s smallest players, Sergeant Kessler never hesitated to punch above his weight, even when the coach put him on the offensive line.

Sergeant West worked on the front lines of battle, serving in the most dangerous areas of Iraq and Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and as a loving father to his three children. They remember his warm nature and broad smile.

Mark Twain once said, “The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.” Sergeant West’s service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America’s citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant West will forever be remembered as one of our country’s bravest.

To John and Marcia, Sergeant West’s parents, Carolyn, his wife, Tyler, Joseph, and Annalise, his children, and his entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Matthew’s service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

The Cowboy Cannoneers

Mr. BARRASSO. Mr. President, I rise today to honor and recognize the Wyoming Army National Guard 300th Armored Field Artillery Battalion Cowboy Cannoneers.

On October 1, 2010, the 300th soldiers will gather for their final battalion reunion. This reunion marks the 60th anniversary of their Korean war mobilization.

On August 19, 1950, the citizen soldiers of the 300th AFA answered the call, picked up their rifles and put on their uniforms to defend our great country. My wife Bobbi’s father, Sergeant First Class Robert L. Brown was one of these brave men.

After 21 days at sea, the 300th finally landed at Pusan, Korea on February 15, 1951. In the Spring of 1951, the Chinese People’s Volunteers launched a major offensive of human wave style attacks.

Master Sergeant Bill Daly described his first encounter with a communist human wave:

The morning of 16 May and all hell is breaking loose—Fire Mission! Fire Mission! The gun crews sprang into action, the 300th with its 12 105mm howitzers, fire mission after mission. We could see the Chinese coming across the rice paddies and down the road toward us from Chau-ni as our shells land among them... It’s a human wave.

From the Battle of Songsan-ri to the Battle for the Punchbowl, the Cowboy Cannoneers provided unrivaled fire support for the U.S. Army X Corps and 1st Marine Division. In 256 days of combat, the 300th fired 300,000 artillery rounds. No other battalion sent a battery farther north of the 38th parallel than the 300th. As a result, the 300th was awarded the Army Presidential Unit Citation and the Republic of Korea Presidential Unit Citation.

I am pleased to announce that General Conway recommended including the 300th as a reinforcing unit to the 1st Marine Division. Secretary Mabus has signed the order. The record is now correct for the 300th and its descendent unit the 2-300th Field Artillery Battalion.

I would like to thank MG Ed Wright, COL Tim Sheppard and COL Larry Barttelbort (Ret) for their resolve and commitment to uncover the facts about the historic service of the 300th. I would also like to thank Secretary Mabus, Secretary of the Army, John McHugh, General Conway and their teams.

We all know the Korean war is commonly referred to in the history books as “The Forgotten War.” Not in Wyoming.

In Wyoming, we never forget the service of our brave men and women who wore the uniform of the United States. We realize that we live safe and free today because of the heroism exemplified by the 300th Cowboy Cannoneers.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of Wyoming’s citizen soldiers who served with the 300th at the time of the Korean war mobilization. There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEADQUARTERS AND HEADQUARTERS BATTERY 300TH ARMORED FIELD ARTILLERY BATTALION Sheridan, Wyoming

OFFICERS
Lt. Col. John F. Raper, Jr.—Commanding; Major Anthony D. Kelly; Major Gorgon H. Simmons; Capt. Ralph Cloyd; Capt. Hulen Denton; Capt. Robert Herzberg; Capt. Alfred Morgan; Capt. John Porman; Capt. Earl Pust; Capt. Robert Taft; 1st Lt. Robert Grider; 1st Lt. George Lawler; 1st Lt. Gustav Logfren; 1st Lt. Peter Mathews; 2nd Lt. Lauri Sand.

WARRANT OFFICERS
CWO–4 Harold Bryce; WO2–Thomas Shannon.
WILLIAMS.
Hughes; Eugene Lewis; Floyd Reisch; Donald Maxwell; Jerry Pryor; James Scott; James Ingalls; Jack Izumi; Hugh McMillan; Linn Ramagno; Robert H. Scoggin; Robert C. W. Quarles; Jimmy M. Radovich; Charles T. Charles W. Miller; Robert W. Noble; Ray-Burnell; Warren L. Fields; Burdett W. Hancock; Robert R. Heron; Raymond D. Maret; Charles W. Miller; Robert W. Noble; Ray-Cmond C. Peterson; Jack L. Prickett; George W. Quares; Jimmy M. Radovich; Charles T. Ray; Richard A. Robertson; George (NMI) Ramagno; Robert H. Scoggin; Robert C. Titus; Robert D. Whitt.

PRIVATE FIRST CLASS

Charles B. Crow; Billy J. Dillard; James L. Duncan; John H. Gosney; Robert L. James; Charles M. Jones; Frank T. Manning; Gerald E. Peyton; George L. Radovich; Marilyn R. Wilde.

PRIVATE

Howard W. Cox; Lawrence R. Doores; James K. Harris; Earl L. Hummell; Edwin R. Johnson; Conrad L. Maysfield; Donald D. Mills; Gaylord J. Whitw.

BATTERY B

30TH ARMORED FIELD ARTILLERY BATTALION
Cody, Wyoming


WARRANT OFFICER

W-1 Roscoe W. Anderson.

MASTER SERGEANT

Hans O. Jacobsen.

SERGEANTS FIRST CLASS

John A. Raycher.

SERGEANTS

Carl E. Svalstad; Leonhard Thompson.

CORPORALS

James Bourke; Frank Green; Bill J. Laya; Raymond Shell; John Shields.

PRIVATE FIRST CLASS

Andy Anderson; George Hushy.

SERVICE BATTERY

30TH ARMORED FIELD ARTILLERY BATTALION
Lovell, Wyoming

OFFICERS

CPT Mark D. Robertson—Commanding; 1st Lt. Donovan P. Neville; 2nd Lt. Lawrence Martogli.

WARRANT OFFICERS

W-1 William H. Brown; W-1 Miles B. Harston; W-1 Arnold W. Korell.

MASTER SERGEANTS

Melvin N. Baird; Steve S. Meeker.

SERGEANTS FIRST CLASS

Aaron E. Owens; Scott B. Smith.

SERGEANTS

Robert N. Baird; James D. Dover; Wes B. Meeker; David A. Mott; Harry Ryan; Read J. Thomas; Daniel Torgersen; Ralph G. Wilder; Donald L. Wood; Fenton C. Wood.

PRIVATE FIRST CLASS

John C. Frost; John E. Johnson; Wayne W. Porter; Thorald H. Rollins; Richard W. Sessions; Darryl M. Stevens; Rob R. Tillett; Nate L. Townsend; John F. Walker; William C. Whalen; Croft M. Workman.

PRIVATES

Narold S. Emmett; Wayne R. Kinser; James R. Larson; Robert M. Lindsay; Gordon N. Olson; Kay N. Parks; Joseph R. Reaash; Douglass A. Reutzel; Leroy V. Sedgewick; Jack M. Thatch; Ralph M. Wilkerson.

RECRUITS

Donald W. Buckley; Theodore W. Doerr; Donald L. Pickett.

ADDITIONAL STATEMENTS

REMEMBERING WILLIAM K. COLENTZ

• Mrs. BOXER. Mr. President, it is with deep sorrow that I join my colleagues today in honoring the memory of an incredible public servant and a dear friend of mine, William Coblenz. My heart goes out to his family, whom he loved so much: his wife Jean, sister-in-law Jim, daughter Wendy, son Andy, son-in-law Jim, daughter-in-law Shari, and four grandchildren: Nikki, Ben, Jake, and Gena. A loving family man, gifted attorney, and astute politician, Bill left an enduring impact on the city of San Francisco, the State of California, and our Nation. Bill passed
away on September 13, 2010, in San Francisco. He was 88 years old.

Bill, a native of San Francisco, was born in 1922 and attended Lowell High School. After graduating from UC Berkeley in 1943, Bill served in the U.S. Army overseas during World War II. Upon completing his service, Bill attended Yale Law School, graduating in 1947.

Although Bill’s monumental legal career began in land use law, it quickly expanded to meet the diversity of his interests and passions. His private practice, Coblentz, Patch, Duffy & Bass, played an essential role in guiding the development of several transformative San Francisco projects including Yerba Buena Gardens, Levi Plaza, Mission Bay, and AT&T Park. In the 1960s, Bill helped rock concert promoter Bill Graham win a permit to open San Francisco’s renowned Fillmore Auditorium.

Bill’s passion for civic engagement was unyielding. He entered the political scene as a young adviser to then-California Attorney General Pat Brown. When he became Governor, Brown offered Bill a seat on the University of California Board of Regents, which he occupied for the next 16 years. During this time, he developed a reputation for defending the rights of outspoken students and faculty. Bill had a strong passion for the promotion of civil rights. In 2008, Bill’s law firm honored his civil rights work by establishing the Coblentz Fellowship for Civil Rights at UC Berkeley’s Boalt Hall School of Law.

I had the honor of calling Bill a friend. His ability to connect with people was unparalleled. From his influential clients, to his political advisees, to his fellow San Franciscans, Bill treated everyone with the respect, humor and consideration he believed they deserved. His relationship with San Francisco was with its people, and it was one that he cherished throughout his life.

Bill approached the people and experiences in his life with a rare combination of courage, humility, and authenticity. His wisdom and camaraderie were consistent sources of inspiration that will truly be missed. Although he is no longer with us, Bill left us not with his life, but with his legacy in San Francisco, but also with enduring memories of his engaging personality and steadfast determination.

REMEMBERING KENNETH RAY HALL

• Mr. DODD. Mr. President, today I honor the life of Connecticut State trooper first class Kenneth Ray Hall of Hartford, CT, who was killed in the line of duty earlier this month. I would like to take this opportunity to extend my deep condolences to Trooper Hall’s family, his colleagues on the Connecticut State Police force, and all those who knew and loved him. The sense of loss they must feel is undoubt-
among us. The Simmons’ family gives all they can and never gives up. They are the epitome of what a committed, forever family, is all about. For this, I want to recognize, honor, and thank them for their passion and dedication and for being true angels in adoption I admire.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the President offered bills from the House to the Senate, a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on September 24, 2010, during the adjournment of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program for certain survivors of deceased parents (H.R. 5425). The following communications were handed to the Senate by the Clerk of the House on September 10, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–7540. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report of a rule entitled ‘‘Pacific Islands’’ (RIN0648–AX36) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7540. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report of a rule entitled ‘‘Pacific Islands’’ (RIN0648–AX36) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that House has agreed to the amendment of the Senate to the bill (H.R. 1517) to allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.

ENROLLED BILLS PRESENTED

The Assistant Secretary of the Senate reported that on September 24, 2010, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program for certain survivors of deceased parents (H.R. 5425). The following communications were handed to the Senate by the Clerk of the House on September 10, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–7540. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report of a rule entitled ‘‘Pacific Islands’’ (RIN0648–AX36) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7545. A communication from the Deputy Chief Counsel for Regulations and SEC Standards, Transmission, External Affairs, Department of Homeland Security, transmitting, pursuant to law, a report of a rule entitled ‘‘Standards for State or Local Agencies’’ (RIN0652–AA02) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–7546. A communication from the Chief of Recovery and Delisting Branch, Endangered Species Program, Department of the Interior, transmitting, pursuant to law, a report of a rule entitled ‘‘Endangered and Threatened Wildlife and Plants; Reclassification of the Oregon Chub From Endangered to Threatened’’ (RIN0918–AW39) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Environment and Public Works.

EC–7547. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Revenue Ruling—Over the Counter Drugs’’ (Rev. Rul. 2010–23) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Finance.

EC–7548. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ‘‘Child Care and Development Fun Program Report to Congress for Fiscal Years 2006 and 2007’’ (RIN0117–AC10) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Finance.

EC–7549. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department’s Annual Report on Disability Complaints; to the Committee on Health, Education, Labor, and Pensions.

EC–7550. A communication from the Acting Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ‘‘Changes to the Federal Food, Drug, and Cosmetic Act and the Federal Register’’ (RIN0962–AX14) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–7551. A communication from the Acting Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ‘‘DHS Privacy Officer, Privacy Office, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ‘‘DHS Privacy Office 2010 Annual Report to Congress’’ (RIN0917–AW41) received in the Office of the President of the Senate on September 19, 2010; to the Committee on Homeland Security and Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–142. A joint resolution adopted by the Legislature of the State of California urging
Congress to protect and preserve the ability of California wineries, as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state consumers; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 34

Whereas, California is the fourth largest wine producing region in the world, after France, Italy, and Spain; and
Whereas, California has 2,972 bonded wineries; and
Whereas, California has 4,600 winegrape growers; and
Whereas, California has 531,000 acres of winegrapes; and
Whereas, California winegrowers ship over 180 million cases, representing some 467 million gallons of wine to the United States wine market; and
Whereas, the California wine industry creates more than 330,000 jobs, billions of dollars in economic impact, and preserves agricultural land and family farms; and
Whereas, the California wine industry generates higher taxes than most industries because, as a regulated industry, it pays excise taxes to the state and federal government on every gallon of wine; and
Whereas, the California wine industry has an annual impact of $61.5 billion on the state’s economy and produces the number one finished agricultural product in the state; and
Whereas, the economic impact of the United States wine industry on the national economy is $121.8 billion annually; and
Whereas, California’s wine industry attracts 20.7 million tourists annually to all regions of California and generates wine-related tourism expenditures of $2.1 billion; and
Whereas, currently 37 states and the District of Columbia allow direct shipping of wine from winemakers to consumers; and
Whereas, the innovation and entrepreneurial spirit of small California wineries drives the entire industry to improve and progress; and
Whereas, in order to reach consumers in other states, many California wineries have turned to direct marketing and shipping of their wines; and
Whereas, since 1985 California has pioneered consumer access to wine through reciprocal and permit shipping to alleviate search for the retail level of California wines; and
Whereas, over the past 10 years, consolidation trends within the wholesale tier have made it difficult for California wineries to achieve adequate distribution, and, as a result, have limited consumer choice; and
Whereas, California wineries have offered voluntary ways to have their direct marketing and shipping permitted and regulated by other states to ensure that those states collect the same taxes that wines sold through the wholesale tier pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in “dry” areas, as defined under the laws of each state; and
Whereas, the California wine industry has developed comprehensive model direct shipping legislation to address all of the concerns and successfully offered real alcohol regulators across the country; and
Whereas, California has enacted a law to open direct shipping of wine from other states to California consumers without discrimina-
tion through a simple permit system to com-
ply with the decision in Granholm v. Heald (2005) 544 U.S. 460; and
Whereas, by rights to regulate wine and alcohol granted by the 21st Amendment to the United States Constitution have always been subject to constitutional limitation and judicial review; and
Whereas, court decisions over the last 40 years balance state authority to regulate alcohol with the framers’ belief that the na-
tion would only succeed if interstate com-
merce thrived; and
Whereas, the Commerce Clause has been applied judicially by the courts to foster national economic policies while preserving nondiscriminatory state authority; and
Whereas, the landmark 2005 United States Supreme Court case, Granholm v. Heald, re-
firmed the established understanding that the 21st Amendment to the United States Constitution to regulate wine as long as they do not discriminate between in-state producers and out-of-state producers, but also ruled that these rights do not supersede other pro-
visions of the Constitution; and
Whereas, H.R. 5034 would severely limit consumer choice to ship wine directly to consumers without discrimi-
nation between the nation as direct-to-consumer laws are amended or repealed; and
Whereas, H.R. 5034 would imperil market access for California wine that cannot ac-
cur effective wholesale distribution; and
Whereas, H.R. 5034 would stultify competi-
tion among the nation’s 7,011 wine producers as markets are artificially constrained and access is limited; and
Whereas, H.R. 5034 would allow certain state alcohol laws to avoid judicial scrutiny through a “trade-off” policy; and
Whereas, H.R. 5034 would reverse decades of long-established jurisprudence that has balanced interstate commerce concerns with state regulation of alcohol and fostered a dramatic growth in wine production, sales, and tax revenue; and
Whereas, H.R. 5034 would insulate and sanction discriminatory state laws by re-
sorting to the Commerce Clause legal challenges and increasing the burden of proof of plaintiffs; and
Whereas, H.R. 5034 would frustrate legitimacy of some laws that the nation as direct-to-consumer laws are amended or repealed; and
Resolved by the Senate and the Assembly of the State of California, jointly, That the Legis-
lature of the State of California hereby re-
spectfully urge the President and Vice President of the United States, to the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, and to each Sen-
or Representative from California in the Congress of the United States.

POM-143. A resolution from the Legislature of Rockland County, New York relative to the Safe Drinking Water Act and hydrau-
lic fracturing; to the Committee on Environ-
ment and Public Works.
POM-144. A resolution from the Legislature of Rockland County, New York urging the President of the United States, to the Secretary of Commerce, to the Secretary of the Interior, and the Regional Administrators for Region 2, to sign and certify the National Environmental Policy Act of 2010; to the Committee on Veterans’ Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 745. A bill to amend the Reclamation Wastewater and Groundwater Study and Fac-
ilities Act to authorize the Secretary of the Interior to participate in the Media Water Project, for water reuse and recharge project, and for other purposes (Rept. No. 111-305).
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1117. A bill to authorize the Secretary of the Interior to provide funding to imple-
menting cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hamp-
sire and Vermont (Rept. No. 111-306).
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the United States Senate, to the Speaker of the United States, to the President pro tempore of the United States, to the Committee on the Judiciary, and to each Senator and Representative from California in the Congress of the United States.

S. 1329. A bill to provide assistance to owners of manufactured homes constructed be-
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1586. A bill to authorize the Secretary of the Interior to acquire used to conduct a special research and demonstration program to reduce manufacturing and construction costs relat-
ing to nuclear reactors, and for other purposes (Rept. No. 111-312).
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1769. A bill to authorize the Secretary of the Interior to sell certain land as components of the National Wilderness Pres-
ervation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes (Rept. No. 111-310).
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 2052. A bill to amend the Energy Policy Act of 2005 to require the Secretary of En-
ergy to carry out a research and develop-
ment demonstration program to reduce manufacturing and construction costs relat-
ing to nuclear reactors, and for other purposes (Rept. No. 111-311).
By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:
S. 2798. A bill to reduce the risk of cata-
static firewild through the facilitation of insect and disease infestion treatment of Na-
tional Forest System and adjacent land, and for other purposes (Rept. No. 111–315).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an am-
endment: S. 2900. A bill to establish a research, de-
velopment, and technology demonstration pro-
gram to enhance the efficiency of gas tur-
bines used in combined cycle and simple cycle power generation systems (Rept. No. 111–315).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute: S. 3075. A bill to withdraw certain Federal land and interests in that land from loca-
tion, entry, and patent under the mining laws and disposition under the mineral and geo-
thermal leasing laws (Rept. No. 111–316).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute: S. 3303. A bill to establish the Chimney Rock–House Mountain National Monument in the State of Colorado (Rept. No. 111–317).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amend-
ment: S. 3313. A bill to withdraw certain land lo-
cated in Clark County, Nevada from loca-
tion, entry, and patent under the mining laws and disposition under all laws per-
taining to mineral and geothermal leasing or mineral materials, and for other purposes (Rept. No. 111–318).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with a bill amendment in the nature of a substitute: S. 3491. A bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star pro-
gram to identify and promote practices, companies, and products that use highly effi-
cient supply chains in a manner that con-
serves energy, water, and other resources (Rept. No. 111–319).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amend-
ment in the nature of a substitute: S. 3493. A bill to amend the Reclamation Projects Authorizion and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclama-
tion, to take actions to improve environ-
mentally sensitive fish habitat in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and for other purposes (Rept. No. 111–320).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute: S. 3492. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other pur-
 poses (Rept. No. 111–321).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment: H.R. 2922. A bill to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District Recycling Project, and for other purposes (Rept. No. 111–322).

H.R. 3398. To extend the boundary of Petersburg National Battlefield in the Com-
monwealth of Virginia, and for other pur-
poses (Rept. No. 111–323).

H.R. 4322. To direct the Secretary of the Interior to conduct a study of water re-
sources in the Rialto–Colton Basin in the State of California, and for other purposes (Rept. No. 111–324).

H.R. 4349. A bill to further allocate and ex-
pand the availability of hydroelectric power generated at Hoover Dam, and for other pur-
poses (Rept. No. 111–325).

H.R. 4395. A bill to revise the boundaries of the Gettysburg National Military Park to in-
clude the Gettysburg Train Station, and for other purposes (Rept. No. 111–326).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute: H.R. 5026. To amend the Federal Power Act to protect the bulk-power system and elec-
tric infrastructure critical to the defense of the United States against cybersecurity and other threats and vulnerabilities (Rept. No. 111–331).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amend-
ment in the nature of a substitute and an amend-
tment to the title: S. 3460. A bill to require the Secretary of Energy to provide funds to States for re-
habitation, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for prop-
erties located in the United States, and for other purposes (Rept. No. 111–332).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Af-
airs, with an amendment and an amend-
tment to the title: S. 3424. A bill to require U.S. Customs and Border Protection to administer polygraph examinations to new and reemployed public law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all peri-
odic background reinvestigations of certain law enforcement personnel, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolu-
tions were introduced, read the first and second times by unanimous con-
sent, and referred as indicated:

By Mr. KYL (for himself, Mr. MERKLEY, and Mr. BURR): S. 3841. A bill to amend title 18, United States Code, to prohibit the creation, sale, distribution, and exchange of animal crush videos that depict obscene acts of animal cruelty, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. FRANKEN, and Mrs. KLOBUCHAR): S. 3842. A bill to protect crime victims’ rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and ex-
pand the DNA testing capacity of Federal, and local crime labs; to in-
crease research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the in-
nocent, to improve the performance of coun-
sel in State capital cases, and for other pur-
poses; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. FEINGOLD, and Mrs. BOXER): S. 3843. A bill to require disclosure of the physical location of business agents engag-
ing in customer service communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR: S. 3841. A bill to provide for the approval of the Agreement Between the Government of the United States of America and the Gov-
ernment of Australia Concerning Peaceful Uses of Nuclear Energy; to the Committee on Foreign Relations.

By Mr. CASEY: S. 3845. A bill to establish the National Competition for Community Renewal to en-
courage communities to adopt innovative strategies and development programs related to poverty prevention, recovery and response, and for other purposes; to the Com-
mittee on Finance.

By Ms. COLLINS (for herself and Mr. AKAKA): S. 3846. A bill to establish a temporary pro-
hibition on termination coverage under the TRICARE program for enrollees under the age of 26 years; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. BOXER): S. 3847. A bill to implement certain defense trade cooperation treaties, and for other pur-
poses; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. LANDRIEU (for herself, Mr. NIHJOPE, Mrs. LINCOLN, Mr. GHRASSELY, Mrs. MURRAY, Mr. DEMINT, Mr. KERRY, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. ENZI, Mr. GARLIN, Mr. VOINOVICH, Mr. FRANKEN, Mr. THUNE, Mr. CONRAD, Mr. COBURN, Mr. MERKLEY, Mr. BROWNBACK, Mr. JOHN-
sox, Mr. BUCKLELLER, Mr. ALEXANDER, Mrs. HUTCHISON, Mr. LEHRUM, Mrs. GILLIBRAND, Mr. LUGAR, Mrs. KOLOBUCHAR, Mr. LAUTEN-
BERG, Mr. WYDEN, Mr. INOUYE, and Mr. CONNYN): S. Res. 697. A resolution expressing the support for the goals of National Adoption Month by pro-
moting national awareness of adoption and the children awaiting families, celebrating
children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mrs. SHAFEREN, and Mr. DARK): S. Res. 649. A resolution designating the week beginning on Monday, November 8, 2010, as “National Veterans History Project Week”; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. ENZI, and Mr. CARDIN):

S. Res. 649. A resolution supporting the goals and ideals of “National Save for Retirement Week”; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. CARDIN, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. DODD, Mrs. BOXER, and Mr. JOHANNIS):

S. Res. 650. A resolution designating the week of October 24 through October 30, 2010, as “National Childhood Lead Poisoning Prevention Week”; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. Cardin, Mrs. Feinstein, Mr. Pryor, Ms. Landrieu, Mrs. Boxer, Mr. Vitter, Mrs. McCaskill, Mr. Vitter, Mr. Wicker, and Mr. Cornyn):

S. Res. 651. A resolution recognizing the 26th anniversary of the designation of the month of September of 1991 as “National Rice Month”; considered and agreed to.

ADDITIONAL COSPONSORS

S. 435

At the request of Mr. CASEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 435, a bill to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, healthy, gang-free, and law-abiding lives.

S. 466

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 466, a bill to permit the televising of Supreme Court proceedings.

S. 465

At the request of Mr. ROBERTS, the name of the Senator from Massachusetts (Mr. BROWN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAPO), the Senator from Florida (Mr. LE MIEX), the Senator from Michigan (Ms. STABENOW), the Senator from Tennessee (Mr. ALEX-ANDER), the Senator from Iowa (Mr. GRASSLEY), the Senator from Vermont (Mr. LEAHY), the Senator from Oklahoma (Mr. COBURN), the Senator from Hawaii (Mr. AKAKA), the Senator from Virginia (Mr. WARNER), the Senator from Mississippi (Mr. WICKER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAVENBERG), the Senator from Michigan (Mr. LEVIN), the Senator from Colorado (Mr. UDALL), the Senator from Minnesota (Ms. KLOBUDAR), the Senator from Ohio (Mr. BROWN), the Senator from New York (Mr. SCHUMER) and the Senator from California (Ms. BOXER) were added as cosponsors of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 131

At the request of Mr. WICKER, the name of the Senator from Florida (Mr. LeMIEUX) was added as a cosponsor of S. 131, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 137

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1327, a bill to reauthorize the public and Indian housing drug elimination program of the Department of Housing and Urban Development, and for other purposes.

S. 1390

At the request of Mr. REID (for Mrs. LINCOLN) for himself, Mr. REED, Mr. CRUZ, Mr. BAYH, Ms. COLLINS, Mr. BUMMER, Mrs. GILLIBRAND, and Mr. JOHANNIS), the name of the Senator from Nevada (Mr. BROWN) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1533

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 319

At the request of Mr. COLLINS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2129, a bill to authorize the Adminis- trator of General Services to convey a parcel of real property in the District of Columbia to provide for the establishment of a National Women’s History Museum.

S. 2888

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2888, a bill to amend section 205 of title 18, United States Code, to exempt qualifying law school students participating in legal clinics from the application of the general conflict of interest rules under such section.

S. 2966

At the request of Mr. FRANKEN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2889, a bill to recruit, support, and prepare principals to improve student academic achievement at high-need schools.

S. 2993

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2993, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 3036

At the request of Mr. BAYH, the name of the Senator from Maine (Ms. SOWE) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer’s Project.

S. 3039

At the request of Mr. UdALL of New Mexico, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3071

At the request of Mrs. McCASKILL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3371, a bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3424

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3572

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut
At the request of Mr. Harkin, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 3668, a bill to require the Secretary of Health and Human Services to establish a demonstration program to award grants to states to enter into contracts with, medical-legal partnerships to assist patients and their families to navigate health-related programs and activities.

At the request of Mr. Grassley, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 3701, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitations for commodity payments and benefits.

At the request of Mrs. Murray, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 3703, a bill to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention National Institutes of Health with respect to pulmonary fibrosis, and for other purposes.

At the request of Mr. Schumer, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 3709, a bill to amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals.

At the request of Mr. Whitehouse, the name of the Senator from New Jersey (Mr. Menendez) was added as a cosponsor of S. 3709, a bill to amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

At the request of Mrs. Lincoln, the name of the Senator from North Carolina (Mr. Burr) was added as a cosponsor of S. 3730, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides.

At the request of Mr. Hatch, the name of the Senator from Ohio (Mr. Brown), the Senator from California (Mrs. Feinstein) and the Senator from Illinois (Mr. Durbin) were added as cosponsors of S. 3751, a bill to amend the Stem Cell Therapeutic and Research Act of 2005.

At the request of Mrs. Feinstein and the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 3755, a bill to ensure fairness in admiralty and maritime law and for other purposes.

At the request of Mr. Tester, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 3786, a bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications.

At the request of Mr. Begich, his name was added as a cosponsor of S. 3802, a bill to designate a mountain and icefield in the State of Alaska as the "Mount Stevens" and "Ted Stevens Icefield", respectively.

At the request of Mr. Leahy, the name of the Senator from Tennessee (Mr. Alexander) was added as a cosponsor of S. 3804, a bill to combat online infringement, and for other purposes.

At the request of Mr. Bingham, the name of the Senator from New York (Mrs. Gillibrand), the Senator from Missouri (Mrs. McCaskill) and the Senator from Montana (Mr. Tester) were added as cosponsors of S. 3813, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes.

At the request of Mr. Durbin, the name of the Senator from Vermont (Mr. Sanders) was added as a cosponsor of S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

At the request of Mr. Johnson, the name of the Senator from Louisiana (Mr. Vitter) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

At the request of Mr. Snowe, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

At the request of Mrs. Gillibrand, the name of the Senator from Kansas (Robert J. Dorgan) was added as a cosponsor of S. Res. 278, a resolution designating the week beginning on November 8, 2010, as National School Psychology Week.

At the request of Mr. Hatch, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. Res. 646, a resolution designating Thursday, November 18, 2010, as "Feed America Day".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. Merkley, and Mr. Burr):

S. 3841. A bill to amend title 18, United States Code, to prohibit the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos that depict obscene acts of animal cruelty, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, today, Senators Merkley and Burr and I are introducing the Animal Crush Video Prohibition Act of 2010. The bill would criminalize the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos. Representative Gallegly has sponsored a House companion bill, the Prevention of Interstate Commerce in Animal Crush Videos Act, H.R. 5566.

Animal crush videos often depict obscene, extreme acts of animal cruelty designed to appeal to a specific, prurient sexual fetish. These crush videos were the target of a 1999 Federal statute that the United States Supreme Court struck down earlier this year in U.S. v. Stevens. In Stevens, the Supreme Court overturned the 1999 Act banning depictions of animal cruelty on the basis that it was unconstitutionally overbroad, in violation of the First Amendment.

The Stevens case did not involve crush videos and the Court specifically stated that it was not deciding whether a statute limited to crush videos would be constitutional. Instead it left the door open for Congress to enact a narrowly tailored ban on animal crush videos.

Our legislation would ban animal crush videos that fit squarely within...
the obscenity doctrine, a well-established exception to the First Amendment. The Senate Judiciary Committee received testimony earlier this month on the obscene nature of crush videos. Dr. Kevin Volkan, a psychology professor with an expertise in atypical psychopathology, testified that there is no sexual nature of crush videos and the specific paraphilias associated with them. He stated that in his professional opinion the crush videos contain elements of specific forms of paraphilia in varying degrees and that people, usually men, watch crush videos for sexual gratification. The Humane Society's two crush video investigations also confirm the inherent sexual nature of many crush videos. Those investigations also found a growing market for custom-made videos for those with crush paraphilia.

The United States also has a long history of prohibiting speech that is essential to criminal conduct. In the case of animal crush videos, the videos themselves drive the criminal conduct depicted in them. Every State and the District of Columbia have laws criminalizing the animal cruelty depicted in the acts as laws are needed to enforce. The acts of extreme animal cruelty are committed secretly and anonymously. The nature of the videos also makes it difficult to determine when and where the crimes occurred or that the crime occurred within the relevant statute of limitations. These prosecutorial difficulties are confirmed by the Association of Prosecuting Attorneys. Given the difficulty in prosecuting the underlying conduct using state law, the integral connection between the video and the criminal conduct, and the recent proliferation of animal crush videos on the Internet and related to the interstate distribution network for animal crush videos.

This measure will also take an important step by banning non-commercial animal crush videos. We believe this is necessary given the nature of the Internet and the propagation of file-sharing and peer-to-peer networks that exist today. Similar to other Federal criminal statutes that prohibit non-commercial distribution, there is an exception for law enforcement purposes. I want to thank Senators LEAHY and SESSIONS and their staffs for their assistance in bringing this important issue and holding a hearing on the topic in the Senate Judiciary Committee. I also want to thank the Humane Society for bringing this issue to Congress’ attention and working tirelessly on it. I urge my Senate colleagues to support this legislation and work with me to swiftly enact it.

By Mr. LEAHY (for himself, Mr. FRANKEN, and Ms. KLOBUCHAR):

S. 3842. A bill to protect crime victims’ rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new standards regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am proud to introduce the Justice for All Reauthorization Act of 2010, together with Senator FRANKEN. The Justice for All Act, passed in 2004, was an unprecedented bipartisan piece of criminal justice legislation and the most significant step Congress had taken in many years to improve the quality of justice in this country, and to restore the integrity of the American justice system. After several hearings and much work, today we begin in earnest the process of building on that foundation to go still further to ensure our criminal justice system works fairly and effectively for all Americans.

In 2000, I introduced the Innocence Protection Act, which aimed to improve the administration of justice by ensuring that defendants in the most serious cases are represented and, where appropriate, access to post-conviction DNA testing necessary to prove their innocence in those cases where the system got it grievously wrong.

The Innocence Protection Act became a key component of the Justice for All Act, along with important provisions to ensure that crime victims would have the rights and protections they need and deserve, and that States and courts take major steps to reduce the backlog of untested rape kits and give prompt justice for victims of sexual assault. These and other important criminal justice provisions made the Justice for All Act a groundbreaking achievement in criminal justice reform.

The programs created by the Justice for All Act have had an enormous impact, and it is crucial that we reauthorize them. Unfortunately, the Committee’s hearings and recent headlines have made clear that authorizing the existing law is not enough. Significant problems remain, and we must work together to address them.

In too many communities around the country, large numbers of untested rape kits have come to light, many of which have not even made their way to crime labs. It is unacceptable that rape victims must still live in fear and wait for justice. We must act to fix this continuing problem.

We have already seen too many cases of people found to be innocent after spending years in jail, and we have faced the harrowing possibility that the unthinkable may have happened: the State of Texas may have executed an innocent man. We must act to ensure that our criminal justice system works as it should so that relevant evidence is tested and considered and all defendants receive quality representation.

I thank Senator FRANKEN for working with me on these important issues and helping to craft this important bill. I also appreciate the Republican Senators, including Senators SESSIONS and GRASSLEY, who have provided input for this bill and participated in the process. I am confident that this legislation will be enacted in a bipartisan fashion, just as the original Justice for All Act was, and I look forward to working with Democrats and Republicans to reach that goal.

The original Justice for All Act included the Debbie Smith DNA Backlog Reduction Program, which authorized significant funding to reduce the backlog of untested rape kits. It has been declared that victims need not live in fear while kits languish in storage. That program is named after Debbie Smith, who lived in fear for years after being attacked before her rape kit was tested and the perpetrator was convicted. Her husband Rob has worked tirelessly to ensure that others need not experience the ordeal she went through. I thank Debbie and Rob for their continuing help on this extremely important cause.

Since we passed this important law in 2004, the Debbie Smith Act has resulted in hundreds of millions of dollars going to States for the testing of DNA samples to reduce backlogs. I have worked with Senators of both parties to ensure full funding for the Debbie Smith Act each year.

As I have researched the problem of untested rape kits, there is one thing that I have heard again and again: the Debbie Smith DNA Backlog Reduction Program is not working and is making a major difference. I have heard from the Justice Department, the States, including Vermont, law enforcement, and victims’ advocates, that Debbie Smith grants have led to significant and meaningful backlog reductions and to justice for victims in jurisdictions across the country.

Unfortunately, despite the good strides we have made and the significant federal funding, we have seen alarming reports of continuing backlogs. A 2008 study found 12,500 untested rape kits in the Los Angeles area alone. While Los Angeles has since made progress in addressing the problem, other cities have now reported backlogs almost as severe. The Justice Department released a report last year finding that in 18 percent of open, unsolved rape cases, evidence had not even been submitted to a crime lab.

The Justice Department study gets to a key component of this problem that has not yet been addressed. No matter how much money we send to crime labs for testing, if samples that...
could help close cases instead sit on the shelf in police evidence rooms and never make it to the lab, that money will do no good. Police officers must understand the importance of testing this vital evidence and must learn when testing is appropriate and necessary. In too many jurisdictions, rape kits taken from victims who put themselves through further hardship to take these samples—rape kits that could help law enforcement to get criminals off the street—are sitting untested.

The bill we introduce today will finally address this part of the problem by mandating that the Department of Justice develop practices and protocols for the processing of DNA evidence and provide technical assistance to State and local governments to implement those protocols. The bill authorizes funding to States and communities to reduce their rape kit backlogs at the law enforcement and lab stages, and by implementing public reporting requirements to help us to identify where the backlogs are. It also takes steps to ensure that labs test DNA samples in the best order so that those samples which can help secure justice for rape victims are tested quickly. It will also put into place new accountability requirements to make sure that Debbie Smith Act money is being spent effectively and appropriately.

The bill makes important changes to existing law to ensure that no rape victims are ever required to pay for testing of their rape kits, and that these costs are covered with no strings attached. Senator Franken has been a strong advocate of this important provision and I ask him for his help.

We have also taken important new steps to ensure that defendants in serious cases receive adequate representation and, where appropriate, testing of relevant DNA samples. As a former prosecutor, I have great faith in the men and women in law enforcement, and I know that in the vast majority of cases, our criminal justice system does work fairly and effectively. I also know that the system can work as it should when each side is well represented by competent and well-trained counsel, and when all relevant evidence is retained and tested.

Sadly, we learn regularly of defendants released after new evidence exonerates them. We must do better. It is an outrage that, in those cases, the guilty person remains on the streets, able to commit more crimes, which makes all of us less safe.

This legislation takes important new steps to ensure that all criminal defendants, including those who cannot afford a lawyer, receive constitutionally adequate representation. It requires the Department of Justice to assist States that want help developing an effective and efficient system of intake and tracking, and establishes a cause of action for the Federal Government to step in when States are systematically failing to provide the representation called for in the Constitution.

This is a reasonable measure that gives the States assistance and time needed to make necessary changes and seeks to provide an incentive for States to do so. Prosecutors and defense attorneys recognize the importance of quality defense counsel. Houston District Attorney Patricia Lykos testified, quite persuasively, before the Judiciary Committee about how competent defense attorneys help her do her job as a prosecutor even better. I have also learned through this process that the most effective defense attorneys are not always the most expensive. In some cases, making the necessary changes may also save States money.

This legislation will also help ensure that the innocent are not punished while the guilty remain free by strengthening the Kirk Bloodsworth Post Conviction DNA Testing Grant Program, one of the key programs created in the Innocence Protection Act. Kirk Bloodsworth was a young man just out of the Marines when he was arrested, convicted, and sentenced to death for a heinous crime that he did not commit. He was the first person in the United States to be exonerated from a death row crime through the use of DNA evidence.

This program provides grants to States for testing in cases like Kirk’s where someone has been convicted, but where significant DNA evidence was not tested. The last administrative resistance to implementing the program for several years, but we worked hard to see the program put into place. Now, money has gone out to a number of States, and the Committee has heard strong testimony that the program is making an impact. The legislation we introduce today expands the very modest authorization of funds to this important program and clarifies the conditions set for this program so that it is better aligned to preserve key evidence, which is crucial, but are required to do so in a way that is attainable and will allow more States to participate.

The bill also asks states to produce comprehensive plans for their criminal justice systems, which will help to ensure that criminal justice systems operate effectively as a whole and that all parts of the system work together and receive the resources they need. The bill reauthorizes and improves key programs, creating a viable framework for coordination and providing funding to States that want help developing comprehensive plans for their criminal justice systems.
“(B) for a violation of the District of Columbia Code, the District of Columbia Court of Appeals.

(2) CRIME VICTIM.—

“(A) the term ‘crime victim’ has the meaning given that term in section 2 of the Victims of Crime Act of 1984 (42 U.S.C. 13950);

“(B) the term ‘combined DNA Index System’ means the Combined DNA Index System of the Federal Bureau of Investigation; and

“(C) the term ‘crime scene’ means a location where the evidential evidence is located or where the crime victim was located at the time the crime occurred.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CRIME VICTIMS.

(a) Crime Victims Legal Assistance Grants.—(1) Section 2103 of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2294) is amended—

“(A) in paragraph (1), by striking ‘$2,000,000 and inserting ‘$5,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015’;

“(B) in paragraph (2), by striking ‘$2,000,000’ and all that follows through ‘2009’ and inserting ‘$5,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015’;

“(C) in paragraph (3), by striking ‘$300,000’ and all that follows through ‘2009’ and inserting ‘$500,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015’;

“(D) in paragraph (4), by striking ‘$7,000,000’ and all that follows through ‘2009’ and inserting ‘$11,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015’; and

“(E) in paragraph (5), by striking ‘$5,000,000’ and all that follows through ‘2009’ and inserting ‘$7,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015’.

(b) Crime Victims Notification Grants.—Section 107 of the Victims of Crime Act of 1984 (42 U.S.C. 13961) is amended by striking ‘‘(3) DISTRICT COURT ; COURT.—The terms ‘district court’ and ‘court’ include the Superior Court of the District of Columbia.’’

SEC. 4. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) In General.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14133) is amended to read as follows:

“SEC. 2. THE DEBBIE SMITH DNA BACKLOG PROGRAM.

“(a) Definitions.—In this section—

“(1) the term ‘backlog for DNA case work’ has the meaning given that term by the Director with such regulations as the Director may prescribe;

“(2) the term ‘Combined DNA Index System’ means the Combined DNA Index System of the Federal Bureau of Investigation;

“(3) the term ‘crime scene evidence’ means the evidence present at the scene of a crime.

“(b) Establishment of Protocols, Technical Assistance, and Definitions of Evidence Backlog for DNA Case Work.—

“(1) PROTOCOLS AND PRACTICES.—Not later than 18 months after the date of enactment of the Justice for All Reauthorization Act of 2010, the Director shall develop and publish a description of protocols and practices the Director considers appropriate for the accurate, timely, and efficient collection and processing of DNA evidence, including protocols and practices specific to sexual assault cases, which shall address appropriate steps in the analysis of cases that might involve DNA evidence, including—

“(A) how to determine—

“(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

“(ii) the preferred order in which evidence from the same crime is to be forwarded by emergency response providers, law enforcement personnel, and crime laboratory personnel; and

“(iii) the preferred order in which evidence from different cases is to be tested;

“(B) the establishment of a reasonable period of time in which each stage of analytical laboratory testing is to be completed; and

“(C) the implementation of reasonable periods of time in which each stage of analytical laboratory testing is to be completed; and

“(D) systems to encourage communication among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and crime victims regarding the status of crime scene evidence to be tested.

“(2) Technical Assistance and Training.—The Director shall develop and publish a definition of the term ‘backlog for DNA case work’ for purposes of this section—

“(A) taking into consideration the different stages at which a backlog may develop, including the investigation and prosecution of a crime by law enforcement personnel, prosecutors, and others, and the laboratory analysis of crime scene samples; and

“(B) which may include different criteria or thresholds for the different stages.

“(3) Definition of Backlog for DNA Case Work.—The Director shall develop and publish a definition of the term ‘backlog for DNA case work’ for purposes of this section—

“(A) requiring a State or unit of local government to—

“(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

“(ii) the preferred order in which evidence from the same crime is to be forwarded by emergency response providers, law enforcement personnel, and crime laboratory personnel; and

“(iii) the preferred order in which evidence from different cases is to be tested;

“(B) requiring a State or unit of local government to—

“(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

“(ii) the preferred order in which evidence from the same crime is to be forwarded by emergency response providers, law enforcement personnel, and crime laboratory personnel; and

“(iii) the preferred order in which evidence from different cases is to be tested;

“(C) requiring a State or unit of local government to—

“(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

“(ii) the preferred order in which evidence from the same crime is to be forwarded by emergency response providers, law enforcement personnel, and crime laboratory personnel; and

“(iii) the preferred order in which evidence from different cases is to be tested;

“(B) determining whether or not a State or unit of local government has implemented an evidence tracking system to ensure effective communication among emergency response providers, law enforcement personnel, prosecutors, defense counsel, courts, crime laboratory personnel, and crime victims regarding the status of crime scene evidence subject to DNA analysis.

“(4) Reporting and Publication of DNA Backlogs.—

“(A) In General.—A plan described in paragraph (2)(A) shall require a State or unit of local government to submit to the Attorney General an annual report reflecting the current backlog for DNA case work within the jurisdiction in which the funds are used, which shall include—

“(i) a specific breakdown of the number of sexual assault cases that are in a backlog for DNA case work and the amount of the amounts received under the grant allocated to reducing the backlog of DNA case work in sexual assault cases;

“(ii) for each case that is in a backlog for DNA case work, the identity of each agency, office, or contractor of the State or unit of local government in which work necessary to complete the DNA analysis is pending; and

“(iii) any other information the Attorney General determines appropriate.

“(B) Compilation.—The Attorney General shall annually compile and publish the reports submitted under subparagraph (A) on the website of the Department of Justice.

“(C) Authorization of Grants for DNA Testing and Analysis.—

“(1) Purpose.—The Attorney General may make grants to States or units of local government to—

“(A) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples collected under applicable legal authority;

“(B) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples from crime scenes, including samples from rape kits, samples from other sexual assault cases, and other violent crimes, carried out in a timely manner;

“(C) establish a system to link DNA evidence from different cases to other cases without an identified suspect; and

“(D) increase the capacity of laboratories owned by the State or unit of local government to carry out DNA testing and analysis.

“(2) Amounts.—The Attorney General may make grants to States or units of local government to—

“(A) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples collected under applicable legal authority;

“(B) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples from crime scenes, including samples from rape kits, samples from other sexual assault cases, and other violent crimes, carried out in a timely manner;

“(C) establish a system to link DNA evidence from different cases to other cases without an identified suspect; and

“(D) increase the capacity of laboratories owned by the State or unit of local government to carry out DNA testing and analysis.

“(3) Report.—A State or unit of local government desiring a grant under this subsection shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require, which shall include—

“(A) a statement of whether or not the State or unit of local government has implemented, or will implement not later than 120 days after the date of the application, a comprehensive plan for the expeditious collection and processing of DNA evidence in accordance with this section; and

“(B) the estimated amount of the Federal share of the costs of the project described in subparagraph (A).

“(4) Limitations.—A State or unit of local government desiring a grant under this subsection shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require, which shall include—

“(A) a statement of whether or not the State or unit of local government has implemented, or will implement not later than 120 days after the date of the application, a comprehensive plan for the expeditious collection and processing of DNA evidence in accordance with this section; and

“(B) the estimated amount of the Federal share of the costs of the project described in subparagraph (A).
"(C) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use to carry out DNA analyses of samples described in subparagraph (1)(A) and the percentage of the amounts the State or unit of local government shall use to carry out DNA analyses of samples described in paragraph (1)(B);

"(D) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use for a purpose described in paragraph (1)(C);

"(E) a plan described in paragraph (2)(A) that, except as provided in subparagraph (C), each DNA analysis is performed in a laboratory that—

"(i) satisfies quality assurance standards; and

"(ii) is operated by the State or a unit of local government;

"(F) specifying the percentage of the amounts received under the grant that the State or unit of local government shall use for the purpose described in paragraph (1)(D).

"(3) ANALYSIS OF SAMPLES.—

"(A) IN GENERAL.—A plan described in paragraphs (1) and (2) requires that, except as provided in subparagraph (C), each DNA analysis be carried out in a laboratory that—

"(i) satisfies quality assurance standards;

"(ii) is operated by the State or a unit of local government;

"(iii) operates by a private entity pursuant to a contract with the State or a unit of local government;

"(B) QUALITY ASSURANCE STANDARDS.—

"(1) IN GENERAL.—The Director of the Federal Bureau of Investigation shall maintain and make available to States and units of local government quality assurance protocols and practices that the Director of the Federal Bureau of Investigation considers adequate to assure the quality of a forensic laboratory.

"(2) EXISTING STANDARDS.—For purposes of this paragraph, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section 210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

"(4) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—A grant for a purpose specified in subparagraph (A), (B), (E), or (F) of paragraph (1) may be made in the form of a voucher or contract for laboratory services, or the laboratory makes a reasonable profit for the services.

"(B) REDEMPITION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may use amounts appropriated to carry out this section to make payments to a laboratory described under subparagraph (B).

"(5) REPORTING AND PUBLICATION OF DNA BACKLOGS.—

"(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require the State or unit of local government to submit to the Attorney General an annual report reflecting the backlog for DNA case work within the jurisdiction in which the funds will be used, which shall include—

"(i) a specific breakdown of the number of sexual assault cases that are in a backlog for DNA case work and the percentage of the amounts made available under a grant for the purpose of reducing the backlog of DNA case work in sexual assault cases;

"(ii) for each case that is in a backlog for DNA case work, the identity of each agency, office, or contractor of the State or unit of local government in which work necessary to complete the investigation or prosecution is pending; and

"(iii) any other information the Attorney General determines appropriate.

"(B) COMPLIANCE.—The Attorney General shall publish the reports submitted under subparagraph (A) on the website of the Department of Justice.

"(e) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General shall distribute grant amounts, and establish appropriate grant conditions, in this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among States and units of local government applying for grants under this section that—

"(A) maximizes the effective use of DNA technology to solve crimes and protect public safety;

"(B) allocates grants among States and units of local government fairly and efficiently, across rural and urban jurisdictions, to address States and units of local government in which significant backlogs for DNA case work exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a State or unit of local government;

"(ii) the population in the State or unit of local government;

"(iii) the number of part I violent crimes in the State or unit of local government; and

"(iv) the availability of resources to train emergency response providers, law enforcement personnel, prosecutors, and crime laboratory personnel on the effectiveness of appropriate and timely DNA collection, processing, and analysis.

"(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total amount appropriated in a fiscal year for grants under this section.

"(3) LIMITATION.—In distributing grant amounts under paragraph (1), the Attorney General shall consider the fiscal years 2011 through 2015, not less than 40 percent of the amount awarded to a State or unit of local government under this section for a fiscal year—

"(I) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(II) in the form of additional grants to States or units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

"(III) supporting compliance with any plans submitted to the Director of the National DNA Index System, and the use of funds received by States or units of local government under this section; and

"(IV) support capacity building efforts; and

"(5) ACCESS.—Each State or unit of local government receiving grants under this section shall make available, for the purpose of audit and examination, any records relating to the receipt or use of the grant.

"(g) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General may distribute not more than 1 percent of the amounts made available under this section for a fiscal year—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government for the fiscal year described in this section;

"(II) for each case that is in a backlog for DNA case work and the percentage of the amounts made available under a grant for the purpose of reducing the backlog of DNA case work in sexual assault cases;

"(III) other such information as the Attorney General may require.

"(h) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year in which grants are awarded under this section, the Attorney General shall submit to Congress a report that includes—

"(1) a summary of the information provided by States or units of local government receiving grants under this section; and

"(2) a description of the priorities and plan for awarding grants among eligible States and units of local government that will ensure the effective use of DNA technology to solve crimes and protect public safety.

"(i) EXPENDITURE RECORDS.—

"(1) IN GENERAL.—Each State or unit of local government that receives a grant under this section shall keep such records as the Attorney General may require to facilitate an effective audit of the receipt and use of grant funds received under this section.

"(2) ACCESS.—Each State or unit of local government that receives a grant under this section shall make available, for the purpose of audit and examination, any records relating to the receipt or use of the grant.

"(j) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may make grants under this section to a State or unit of local government for the purpose of defraying the costs incurred by laboratories operated by the State or unit of local government in preparing for or conducting an audit of the receipt and use of funds received by each such State or unit of local government for the purpose of defraying the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards.

"(k) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may make grants under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

"(1) certifies to the Attorney General that in such State or unit—

"(II) all of the purposes set forth in subsection (a) and (b) have been met;

"(III) there is no backlog for DNA case work, as defined by the Director in accordance with section 210304(b); and

"(2) the Attorney General determines that the State or unit of local government requires assistance in alleviating a backlog of cases in which the State or unit of local government has taken, or is taking, all necessary steps to ensure that the unit of local government is eligible to include in the Combined DNA Index System, directly or through a State law enforcement agency, all DNA that the State or unit of local government has taken, or is taking, all necessary steps to ensure that the unit of local government is eligible to include in the Combined DNA Index System, directly or through a State law enforcement agency, all DNA that the unit of local government has requested funding; and

"(i) satisfies quality assurance standards;

"(ii) EXISTING STANDARDS.—For purposes of this paragraph, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section 210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

"(3) ANALYSIS OF SAMPLES.—

"(A) IN GENERAL.—A plan described in paragraphs (1) and (2) requires that, except as provided in subparagraph (C), each DNA analysis be carried out in a laboratory that—

"(i) satisfies quality assurance standards;

"(ii) EXISTING STANDARDS.—For purposes of this paragraph, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section 210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

"(4) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—A grant for a purpose specified in subparagraph (A), (B), (E), or (F) of paragraph (1) may be made in the form of a voucher or contract for laboratory services, or the laboratory makes a reasonable profit for the services.

"(B) REDEMPITION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may use amounts appropriated to carry out this section to make payments to a laboratory described under subparagraph (B).

"(5) REPORTING AND PUBLICATION OF DNA BACKLOGS.—

"(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require the State or unit of local government to submit to the Attorney General an annual report reflecting the backlog for DNA case work within the jurisdiction in which the funds will be used, which shall include—

"(i) a specific breakdown of the number of sexual assault cases that are in a backlog for DNA case work and the percentage of the amounts made available under a grant for the purpose of reducing the backlog of DNA case work in sexual assault cases;
of cases involving a forensic science other than DNA analysis.

'(1) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—If a laboratory operated by a State or unit of local government which has received funds under this section has undergone an external audit conducted to determine compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of the audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with the standards, the State or unit of local government shall implement any such remediation as soon as practicable.

'(m) PENALTY FOR NONCOMPLIANCE.—

'(1) IN GENERAL.—The Attorney General shall cause to prepare a list of the States and units of local government receiving a grant under this section that have failed to provide the information required under subsection (c)(4)(A), (d)(5)(A), or (g). The Attorney General shall publish each list compiled under this paragraph on the website of the Department of Justice.

'(2) GRANT FUNDS.—For any State or local government that the Attorney General determines has failed to provide the information required under subsection (c)(4)(A), (d)(5)(A), or (g), the Attorney General may not make a grant under this section for the fiscal year after the fiscal year to which the determination relates in an amount that is more than 50 percent of the amount the State or local government would have otherwise received.

'GRANTS TO STATES AND UNITS OF LOCAL GOVERNMENT.''

SEC. 5. POST-COMPARISON DNA TESTING.

(a) Grant Authority.—Notwithstanding the amendment made by subsection (a) of section 308(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–3(a)(2)), the Attorney General may not make a grant under section 2 of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a), until the transition date.

(b) Transition Date.—The transition date referred to in paragraph (a) is September 27, 2010.

(c) Transition Period.—Until the transition date referred to in paragraph (a), the Attorney General may make grants under section 2 of such Act to persons con-

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the Combined DNA Index System of the laboratories in the analysis of DNA evidence, including the mandatory technical review of all outsourced DNA evidence by public laboratories prior to uploading DNA profiles into the Combined DNA Index System of the Federal Bureau of Investigation. The evaluation shall take into consideration the need to reduce DNA evidence backlogs while guaranteeing the integrity of the Combined DNA Index System.

REPORT TO CONGRESS.—Not later than 30 days after the date on which the Evaluation of the Combined DNA Index System of the Federal Bureau of Investigation completes the evaluation under paragraph (1), the Director shall submit to Congress a report on the findings of the evaluation and any proposed policy changes.

TRANSITION PROVISION.—(1) DEFINITION.—In this subsection, the term 'transition date' means the day after the latter of—

'(a) the date on which the Director of the National Institute of Justice issues a final rule on the implementation of the requirements of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14136) to develop the DNA Evidence Management System, which the Director determines is in a position to begin accepting data for the DNA Evidence Management System (the date referred to in section 2(b)(3) of the Act); and

'(b) the date on which the Director of the National Institute of Justice issues a final rule on the implementation of the requirements of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14136), as amended by subsection (a).

(2) GRANT AUTHORITY.—Notwithstanding the amendment made by subsection (a)—

'(a) the Attorney General may make grants under section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14136), as amended by subsection (a), before the date of enactment of this Act, until the transition date; and

'(b) the Attorney General may not make a grant under section 2 of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a), until the transition date.
shall publish the best practices established under subsection (a)(1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by inserting after the item relating to section 413 the following:

"(1) STRATEGIC PLANNING.—Not later than 90 days after the date of enactment of this subsection, the Attorney General shall begin to provide technical assistance to States and local governments requesting support to develop and implement the strategic plan required under subsection (a)(6).

(2) PROTECTION OF CONSTITUTIONAL RIGHTS.—Not later than 90 days after the date of enactment of this subsection, the Attorney General shall begin to provide technical assistance to States and local governments, including any agent thereof with respect to the administration of justice, requesting support to meet the obligations established by the Sixth Amendment to the Constitution of the United States, which shall include—

(A) public dissemination of practices, structures, or models for the administration of justice consistent with the requirements of the Sixth Amendment; and

(B) assistance with adopting and implementing a system for the administration of justice consistent with the requirements of the Sixth Amendment; and

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of fiscal years 2011 through 2015 to carry out this subsection.

(III) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by officials or employees of any governmental agency with responsibility for the administration of justice, including the administration of programs or services that provide appointed counsel to indigent defendants, that deprives persons of their rights to assistance of counsel as protected under the Sixth Amendment and Fourteenth Amendment to the Constitution of the United States.

(2) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may, in a civil action, obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

(3) EFFECTIVE DATE.—This subsection shall take effect 2 years after the date of enactment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 647—EXPRESSION OF THE SUPPORT FOR THE GOALS OF NATIONAL ADOPTION DAY AND NATIONAL ADOPTION MONTH BY PROMOTING NATIONAL AWARENESS OF ADOPTION AND THE CHILDREN AWAITING FAMILY CARE, CELEBRATING CHILDREN AND FAMILIES INVOLVED IN ADOPTION, AND ENCOURAGING AMERICANS TO SECURE SAFETY, PERMANENCY, AND WELL-BEING FOR ALL CHILDREN

Ms. LANDRIEU (for herself, Mr. INHOFE, Mrs. LINCOLN, Mr. GRASSLEY, Mrs. MURRAY, Mr. DEMINT, Mr. KERRY, Ms. COLLINS, Mr. NELSON, Ms. JAYCQUELLE, Mr. ALLEN, Mrs. HUTCHISON, Mr. LE Mineux, Mrs. GILLBRAND, Mr. LUGAR, Ms. KLOBuchar, Mr. LAUTenberg, Mr. WYDEN, Mr. INOUYE, and Mr. CORNYN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Res. 647

Whereas there are approximately 465,000 children in the foster care system in the United States, approximately 123,000 of whom are waiting for families to adopt them; Whereas 55 percent of the children in foster care are below the age of 15; Whereas the average length of time a child spends in foster care is over 2 years; Whereas, for many foster children, the wait for adoption can be in excess of 10 years; Whereas, because of their age, some foster children are not in a position to receive an education; and Whereas a 2006 survey conducted by the Dave Thomas Foundation for Adoption demonstrated that though "Americans overwhelmingly support the concept of adoption, and in particular foster care adoption . . . foster care adoptions are not increased significantly over the past five years;" Whereas, while 4 in 10 Americans have considered adoption, a majority of Americans have misperceptions about the process of adopting children from foster care and the children who are eligible for adoption; Whereas 36 percent of Americans who have considered adoption consider adopting children from foster care above other forms of adoption; Whereas 45 percent of Americans believe that children enter the foster care system because of juvenile delinquency, when in reality the vast majority of children who have entered the foster care system were victims of neglect, abandonment, or abuse; Whereas 46 percent of Americans believe that foster care adoption is expensive, when in reality there is no substantial cost for adopting from foster care and financial support is available to adoptive parents after the adoption is finalized; Whereas both National Adoption Day and National Adoption Month occur in November; Whereas National Adoption Day is a collective national effort to find permanent, loving families for children in the foster care system; Whereas, since the first National Adoption Day in 2000, more than 30,000 children have joined forever families during National Adoption Day; Whereas in 2009, adoptions were finalized for nearly 5,000 children through 400 National Adoption Day events in all 50 States, the District of Columbia, Puerto Rico, and Guam; and Whereas the President traditionally issues an annual proclamation to declare November as National Adoption Month, and National Adoption Day is on November 20, 2010: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Adoption Day and National Adoption Month; (2) recognizes that every child should have a permanent and loving family; and (3) encourages the people of the United States to consider adoption during the month of November and all throughout the year.

SENATE RESOLUTION 648—DESIGNATING THE WEEK BEGINNING ON MONDAY, NOVEMBER 8, 2010, AS "NATIONAL VETERANS HISTORY PROJECT WEEK" Mr. CRAPO (for himself, Mrs. LINCOLN, Mrs. S HAEEN, and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 648

Whereas 2010 marks the 10th anniversary of the establishment of the Veterans History Project by Congress in order to collect and preserve the wartime stories of veterans of the United States Armed Forces of the United States; Whereas Congress charged the American Folklife Center at the Library of Congress to...
undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans; Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic-minded institutions nationwide who interview veterans according to the guidelines outlined by the project; Whereas these oral histories have created an abundant resource for scholars to gather first-hand accounts of veterans’ experience in World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf War, and the Afghanistan and Iraq conflicts; Whereas 17,000,000 wartime veterans in the United States whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of “service,” “sacrifice,” “citizenship,” and “democracy”; Whereas more than 70,000 oral histories have already been collected and more than 8,000 oral histories are fully digitized and available through the website of the Library of Congress; Whereas the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of it honorees; and Whereas “National Veterans Awareness Week” has been recognized by Congress in previous years: Now, therefore, be it Resolved, That the Senate— (1) designates the week beginning on Monday, November 8, 2010, as “National Veterans History Project Week”; (2) recognizes “National Veterans Awareness Week”; (3) calls on the people of the United States to interview at least 1 veteran in their families or communities according to guidelines provided by the Veterans History Project; and (4) encourages national, State, and local organizations along with Federal, State, city, and county governmental institutions to participate in support of the effort to document, preserve, and honor the service of veterans of the Armed Forces of the United States.

SENATE RESOLUTION 649—SUPPORTING THE GOALS AND IDEALS OF “NATIONAL SAVE FOR RETIREMENT WEEK,” IN CLARIFYING THE IMPORTANCE OF PUBLIC AWARENESS OF THE VARIOUS TAX-PREFERRED RETIREMENT VEHICLES AND INCREASING PERSONAL FINANCIAL LITERACY

Mr. CONRAD (for himself, Mr. ENZI, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. Res. 649

Whereas people in the United States are living longer, and the cost of retirement is increasing significantly; Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families; Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their families are saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement years; Whereas financial literacy is an important factor in United States workers’ understanding of the true need to save for retirement; Whereas saving for one’s retirement is a key component to overall financial health and security, and financial literacy, years and years of education, and the importance of financial literacy in planning one’s retirement must be advocated; Whereas many workers may not be aware of the available retirement vehicles or may not have focused on the importance of, and need for, saving for their own retirement; Whereas many employees have available to them, through their employers, access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of those employees may not be taking advantage of those plans at all or at the full extent allowed by those plans as prescribed by Federal law; Whereas the need to save for retirement is important, even during economic downturns or market declines, making continued contributions all the more important; Whereas the Federal government, public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of tax-advantaged retirement accounts and financial plans that include retirement savings strategies and to take advantage of the availability of tax-preferred savings vehicles to assist them in saving for retirement; and Whereas October 17 through October 23, 2010, has been designated as “National Save for Retirement Week”; Now, therefore, be it Resolved, That the Senate— (1) supports the goals and ideals of “National Save for Retirement Week”; (2) recognizes the importance of raising public awareness of the various tax-preferred retirement vehicles as important tools for personal savings and retirement financial security; (3) supports the need to raise public awareness of the availability of a variety of ways to save for retirement which are favored under the Internal Revenue Code of 1986 and which can be utilized by many Americans, but which should be utilized by more; (4) supports the need to raise public awareness of the importance of saving adequately for retirement which is threatened existence of tax-preferred employer-sponsored retirement savings vehicles; and (4) calls on the State, localities, schools, universities, non-profit organizations, businesses, other entities, and the people of the United States to observe National Save for Retirement Week with appropriate programs and activities, with the goal of increasing retirement savings for all the people of the United States.

SENATE RESOLUTION 650—DESIGNATING THE WEEK OF OCTOBER 24 THROUGH OCTOBER 30, 2010, AS “NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK”

Mr. REED (for himself, Ms. COLLINS, Mr. CARDIN, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. DODD, Mrs. BOXER, and Mr. JOHANNIS) submitted the following resolution; which was considered and agreed to:

S. Res. 650

Whereas lead poisoning is one of the leading environmental health hazards facing children in the United States; Whereas approximately 200,000 children in the United States under the age of 6 have harmful levels of lead in their blood; Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavioral problems, learning disabilities, and impaired growth; Whereas children from low-income families are significantly more likely to be poisoned by lead than are children from high-income families; Whereas children may be poisoned by lead in water, soil, housing, or consumable products; Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it Resolved, That the Senate— (1) designates the week of October 24 through October 30, 2010, as “National Childhood Lead Poisoning Prevention Week”; and (2) calls upon the States, localities, schools, and other entities, and the people of the United States to observe National Childhood Lead Poisoning Prevention Week with appropriate programs and activities.

SENATE RESOLUTION 651—RECOGNIZING THE 20TH ANNIVERSARY OF THE DESIGNATION OF THE MONTH OF SEPTEMBER AS “NATIONAL RICE MONTH”

Mr. REID (for Mrs. LINCOLN (for herself, Mr. COCHRAN, Mrs. FRANKEN, Mr. PRIOR, Ms. LANDRIEU, Mrs. BOXER, Mr. VANDERHOLEN, Mrs. MCCASKILL, Mr. BOND, Mr. WICKER, and Mr. CORNYN)) submitted the following resolution; which was considered and agreed to:

S. Res. 651

Whereas rice is a primary staple for more than half of the population of the world and has been one of the most important foods throughout history; Whereas rice production in the United States dates back to the year 1685 and is one of the oldest agribusinesses in the United States; Whereas rice grown in the United States significantly contributes to the diet and economic health of the United States; Whereas rice is produced in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas; Whereas rice production, processing, merchandizing, and related industries in the United States are vital to the economies of the rural areas of the Sacramento Valley in the State of California, the Gulf Coast region of the States of Louisiana and Texas, and the Mississippi Delta region where more than 3,000,000 acres of rice, on average, are produced annually; Whereas, in 2009, rice farmers in the United States produced nearly 22,000,000,000 pounds of rice that had a farm gate value of more than $3,000,000,000; Whereas, in 2009, rice production and subsequent sales generated $17,500,000,000 in total value added to the economy of the United States from rice production, milling, and selected end users and had the employment effect of contributing 127,000 jobs to the labor force; Whereas eighty-five percent of the rice consumed in the United States is grown by American rice farmers, which supports rural communities and the economy of the United States; and Whereas the United States is one of the largest exporters of rice and produces more...
Bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities for the Department of Defense, for military personnel strengths for such fiscal year, and for other purposes, which was ordered to lie on the table.

SA 4660. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, supra; which was ordered to lie on the table.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4659. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table.

SA 4660. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, supra; which was ordered to lie on the table.

SA 4661. Mr. DURBIN (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 553, to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, as for other purposes.

SA 4662. Mr. AKAKA (for Mr. Voinovich, and Mr. Merkley) submitted an amendment intended to be proposed by him to the bill S. 3816, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4663. Mr. CASEY (for Mr. Akaka (for himself and Mr. Voinovich)) proposed an amendment to the bill H.R. 996, to enhance citizen access to Government information and to establish a web-based portal to Government documents issued to the public must be written clearly, and for other purposes.

SA 4664. Mr. CASEY (for Mr. Lieberman) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and transfer statutory entitlements to pay and transfer statutory entitlements to pay and prevent the offshoring of such jobs overseas; which was ordered to lie on the table.

SA 4665. Mr. CASEY (for Mrs. Feinstein (for herself and Mr. Bond)) proposed an amendment to the bill H.R. 2701, to authorize appropriations for fiscal year 2010 for intelligence, counterintelligence, and related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability Fund, and for other purposes.

SA 4666. Mr. CASEY (for Ms. Murkowski) proposed an amendment to the bill S. 3802, to designate a mountain and ski area in the State of Alaska as the "Mount Stevens" and "Ted Stevens Icefield", respectively.

TEXT OF AMENDMENTS

SA 4659. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—VISA REFORM

SECT. 301. SHORT TITLE.
This title may be cited as the "1-1B and L-1 Visa Reform Act of 2010."

Subtitle A—H-1B Visa Fraud and Abuse

SEC. 311. MODIFICATION OF APPLICATION REQUIREMENTS.
(a) GENERAL APPLICATION REQUIREMENTS.—
Subparagraph (A) of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by striking ""(A) The employer—"
and inserting ""(A) The employer—"
and inserting ""for completeness and clear indication of Labor's website, without charge."";
(b) INTERNET POSTING REQUIREMENT.—
Subparagraph (C) of such section 212(n)(1) is amended—
(1) by redesignating clause (i) as a subclause (II);
(2) by striking ""(i) has provided"" and inserting the following:
""(i) is true of the employer;""; and
(3) by inserting before clause (ii), as redesignated by paragraph (2) of this subsection, the following:
""(I) the wages and other terms and conditions of employment;"
""(II) the minimum education, training, experience, and other requirements for the position; and"
""(III) the process for applying for the position; and"
; and
(c) WORK DETERMINATION INFORMATION.—
Subparagraph (D) of such section 212(n)(1) is amended by inserting ""the wage determination methodology used under subparagraph (A)(i) after ""shall contain""; and
(d) APPLICATION OF REQUIREMENTS TO ALL EMPLOYERS.—
SEC. 312. NEW APPLICATION REQUIREMENTS.
Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after clause (ii) of subparagraph (G) the following:
""(i) the employer shall submit to the Secretary the Internet statement described in paragraph (3), for at least 30 calendar days, a detailed description of each position for which a nonimmigrant is sought that includes a description of—"
""(I) the wages and other terms and conditions of employment;"
""(II) the minimum education, training, experience, and other requirements for the position; and"
""(III) the process for applying for the position; and"
; and
(c) WORK DETERMINATION INFORMATION.—
Subparagraph (D) of such section 212(n)(1) is amended by inserting ""the wage determination methodology used under subparagraph (A)(i) after ""shall contain""; and
(d) APPLICATION OF REQUIREMENTS TO ALL EMPLOYERS.—

SECT. 313. MODIFICATION OF APPLICATION REQUIREMENTS.
(a) GENERAL APPLICATION REQUIREMENTS.—
(1) Nondisplacement.—Subparagraph (E) of such section 212(n)(1) is amended—
(A) in clause (i)—
(i) by striking ""90 days"" both places it appears and inserting ""180 days""; and
(ii) by striking ""(1) in the case of an application described in clause (ii), the"" and inserting ""The""; and
(B) by striking clause (ii).

(2) Recruitment.—Subparagraph (G)(i) of such section 212(n)(1) is amended by striking ""In the case of an application described in subparagraph (D)(ii), subject"" and inserting ""Subject"".

(3) Recruitment.—Subparagraph (F) of such section 212(n)(1) is amended to read as follows:
""The employer shall not place, outsource, lease, or otherwise contract for the services or placement of H-1B nonimmigrants with another employer unless the employer of the alien has been granted a waiver under paragraph (2)(E)."";

SEC. 314. NEW APPLICATION REQUIREMENTS.
Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after clause (ii) of subparagraph (G) the following:
""(i) If the employer employs 50 or more employees in the United States, the sum of the number of such employees plus the number of H-1B nonimmigrants plus the number of such employees who are nonimmigrants described in section 101(a)(15)(L) may not exceed 50 percent of the total number of employees."
""(J) If the employer, in such previous period as the Secretary shall specify, employed 1 or more H-1B nonimmigrants, the employer shall submit to the Secretary the Internet statement filed by the employer with the Department of Labor's website, without charge."";

SEC. 315. MODIFICATION OF APPLICATION REQUIREMENTS.
(a) TECHNICAL AMENDMENT.—
(1) Nondisplacement.—
Subparagraph (E) of such section 212(n)(1) is amended—
(A) in clause (i)—
(i) by striking ""or obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(ii) by striking ""and"" and inserting ""and is"";
(iii) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(iv) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(v) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(vi) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(vii) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(viii) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(ix) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(x) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xi) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xii) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xiii) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xiv) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xv) by striking ""or is obviously inaccurate"" and inserting ""or is obviously inaccurate"";
(xvi) by striking "“or obviously inaccurate”” and inserting "“or is obviously inaccurate””;
(xvii) by striking "“or obviously inaccurate”” and inserting "“or is obviously inaccurate””;
(xviii) by striking "“or obviously inaccurate”” and inserting "“or is obviously inaccurate””;
(xix) by striking "“or obviously inaccurate”” and inserting "“or is obviously inaccurate””;
(xx) by striking "“or obviously inaccurate”” and inserting "“or is obviously inaccurate””;
""(II) the median average wage for all workers in the occupational classification in the area of employment; and"
""(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and"
""(I) the locally determined prevailing wage level for the occupational classification in the area of employment;"
(b) Recruitment.—Clause (i) of such section 212(n)(1) is amended—
(1) by redesignating clause (i) as subclause (II);
(2) by striking ""(i) has provided"" and inserting the following:
""(i) is true of the employer;""; and
(3) by inserting before clause (ii), as redesignated by paragraph (2) of this subsection, the following:
""(I) the wages and other terms and conditions of employment;"
""(II) the minimum education, training, experience, and other requirements for the position; and"
""(III) the process for applying for the position; and"
PART II—INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST H-1B EMPLOYERS

SEC. 321. GENERAL MODIFICATION OF PROCEDURES FOR INVESTIGATION AND DISPOSITION.

Subparagraph (A) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended—

(1) in the matter preceding subclause (I)—

(A) by striking "(A) Subject" and inserting "(A)(i) Subject";

(B) by striking "12 months" and inserting "24 months";

(C) by striking the last sentence; and

(D) by adding at the end the following:—

"(ii)(I) Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if there is a failure or misrepresentation that has occurred; and

"(II) The Secretary may conduct surveys of the degree to which employers comply with the requirements of this subsection and may require the annual compliance audits of employers that employ H-1B nonimmigrants.

"(III) The Secretary shall—

"(aa) conduct annual compliance audits of each employer with more than 100 H–1B nonimmigrants; and

"(bb) conduct annual compliance audits of each employer who has filed an application under this subsection—

"(I) the employer with whom the H–1B nonimmigrant is not essentially an arrangement for the placement of the nonimmigrant with the employer who has filed the placement application; and

"(II) the employer who has filed the placement application but who has not received the placement of the H–1B nonimmigrant with the employer who has filed the placement application before and ending 180 days after the date of the placement of the nonimmigrant with the employer; and

"(III) an employer that violates such subparagraph (A) shall be liable to the employees harmed by such violations for lost wages and benefits; and

(2) in clause (ii)—

(A) by striking "to take, fail to take, or threaten to take or fail to take, a personnel action" and inserting "to take, fail to take, or threaten to take, a personnel action"; and

(B) by striking "(II) after "(iv);"

(3) by striking at the end and inserting a semicolon and "(1)(B), (1)(E), or (1)(F)" and inserting "a condition of paragraph (A) in the matter preceding subclause (I)—

(1) in clause (i)—

(A) by striking "(a) in subparagraph (A), (B), (C), (D), (E), (F), (G)(i)(I), (H), (I), or (J) of paragraph (i)"; and

(B) by striking "(1)" and inserting "(1)(A)";

and

(2) in clause (ii)—

(A) by striking "$1,000" and inserting "$2,000"; and

(B) in subclause (i)—

(i) by striking "$1,000" and inserting "$2,000"; and

(ii) by striking "and the end"; and

(C) in subclause (II), by striking the period at the end and inserting a semicolon and "and";

(4) in clause (iv)—

(A) in subclause (II), by striking the period at the end and inserting a semicolon and "and";

(B) by adding at the end the following:—

"(III) an employer that violates such subparagraph (A) shall be liable to the employees harmed by such violations for lost wages and benefits; and

(5) in clause (vi)—

(A) by amending subclause (I) to read as follows:

"(I) It is a violation of this clause for an employer who has filed an application under this subsection—

"(aa) to require an H–1B nonimmigrant to pay a penalty for ceasing employment with the employer prior to a date agreed to by the nonimmigrant and the employer (the Secretary shall determine whether a required payment is a penalty, and not liquidated damages, pursuant to relevant State law); and

"(bb) to fail to offer to an H–1B nonimmigrant, during the nonimmigrant’s period of authorized employment, on the same terms and for the same period of authorized employment, on the same terms and conditions, as the employer offers to United States workers, workers and benefits and eligibility for benefits, including—

"(AA) the opportunity to participate in health, life, disability, and other insurance plans;

"(BB) the opportunity to participate in retirement savings plans, and

"(CC) cash bonuses and noncash compensation, such as stock options (whether or not based on performance); and

"(aa) to require an H–1B nonimmigrant to

"(ii) the placement of the H–1B nonimmigrant with the employer who has filed an application under clause (i) or (ii), deter-

mines that such compliance would interfere with an effort by the Sec-

retary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Sec-

detary under this clause shall not be subject to judicial review; and

(6) in clause (vi), as so redesignated, by striking "An investigation" and inserting "and all that follows through the determination." and inserting "If the Secretary of Labor, after an investigation under clause (i) or (ii), deter-

mines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall impose a penalty under subparagraph (C)."

(7) by adding a period at the end of clause (i); and

(8) by redesigning clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(9) by redesigning clauses (ii), (iii), (iv), and (v) as clauses (i), (ii), (iii), and (iv), respectively;

(10) by redesigning clauses (i), (ii), (iii), and (iv) as clauses (i), (ii), (iii), and (iv), respectively;

(11) by redesigning clauses (ii), (iii), (iv), and (v) as clauses (i), (ii), (iii), and (iv), respectively;

(12) by redesigning clauses (i), (ii), and (iii) as clauses (i), (ii), and (iii), respectively;

and

(13) by redesigning clauses (ii), (iii), (iv), and (v) as clauses (i), (ii), (iii), and (iv), respectively;
SEC. 326. CONFORMING AMENDMENT.

Subparagraph (F) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by striking "the preceding sentence shall not apply unless whether or not the employer is an H–1B-dependent employer.

PART III—OTHER PROTECTIONS

SEC. 331. POSTING AVAILABLE POSITIONS THROUGH THE DEPARTMENT OF LABOR.

(a) Department of Labor Website.—Paragraph (3) of section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended to read as follows:

"(3)(A) Not later than 90 days after the date of the enactment of the H–1B and L–1 Visa Modernization Act, the Secretary of Labor shall establish a searchable Internet website for posting positions as required by paragraph (1)(C). Such website shall be available to the public without charge.

"(B) The Secretary may work with private companies or nonprofit organizations to develop and operate the Internet website described in subparagraph (A).

"(C) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph."

(b) Requirement for Publication.—The Secretary of Labor shall submit to Congress and the Federal Register and other appropriate media a notice of the date that the Internet website required by paragraph (3) of section 212(n) of such Act, as amended by subsection (a), will be operational.

(c) Application.—The amendments made by subsection (a) shall apply to an application for a visa or other benefits filed on or after the date described in subsection (b).

SEC. 332. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) Immigration Documents.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

"(cc) an adequate business plan;

(aa) an adequate business plan;

(bb) sufficient physical premises to carry out the proposed business;

(cc) the financial ability to commence the business;

(dd) the financial ability to commence the business;

(ee) an adequate job classification and wage determination system. The report shall—

(1) specifically address whether the systems in place accurately reflect the complexity of current job types as well as geographic wage differences; and

(2) make recommendations concerning necessary updates and modifications.

SEC. 333. REQUIREMENTS FOR INFORMATION FOR H–1B AND L–1 NONIMMIGRANTS.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

"(e) Requirements for Information for H–1B and L–1 Nonimmigrants.—

"(1) In General.—Upon issuing a visa to an applicant for nonimmigrant status pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is outside the United States, the issuing officer shall provide the applicant with—

"(A) a statement outlining the obligations of the applicant's employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections;

"(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations; and

"(C) a copy of the application submitted for the nonimmigrant under section 212(n) or the petition submitted for the nonimmigrant under subsection (c), as appropriate.

"(2) Upon the issuance of a visa to an applicant referred to in paragraph (1) who is inside the United States, the issuing officer of the Department of Homeland Security shall provide the applicant with the material described in clauses (1), (ii), and (iii) of subparagraph (A).

SEC. 334. ADDITIONAL DEPARTMENT OF LABOR EMPLOYEES.

(a) In General.—The Secretary of Labor is authorized to hire 200 additional employees to administer, oversee, investigate, and enforce programs involving nonimmigrant employees described in section 101(a)(15)(H)(ii)(B).

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 335. TECHNICAL CORRECTION.

Section 212 of the Immigration and Nationality Act is amended by redesignating the second subsection (t), as added by section 1(b)(2)(B) of the Act entitled "An Act to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998" (Public Law 108–449 (118 Stat. 3470)), as subsection (u).

SEC. 336. APPLICATION.

Except as specifically otherwise provided, the amendments made by this title shall apply to applications filed on or after the date of the enactment of this Act.

Subtitle B—L–1 Visa Fraud and Protections

SEC. 341. PROHIBITION ON OUTPLACEMENT OF L–1 NONIMMIGRANTS.

(a) In General.—Paragraph (F) of section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended to read as follows:

"(F)(i) Unless an employer receives a waiver under clause (ii), an employer may not employ an alien, for a cumulative period of more than 1 year, who—

"(I) will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 101(a)(15)(L); and

"(II) will be stationed primarily at the workplace of an employer other than the petitioner or its affiliate, subsidiary, or parent, including pursuant to an outsourcing, leasing, or other contracting agreement.

"(ii) The Secretary of Homeland Security may grant a waiver of the requirements of clause (i) for an employer if the Secretary determines that the employer has established that—

"(I) the employer with whom the alien referred to in clause (i) would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days after the date of the placement of such alien with the employer;

"(II) such alien will not be controlled and supervised by the same employer with whom the nonimmigrant would be placed; and

"(III) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for an unaffiliated employer with whom the nonimmigrant will be placed, other than an arrangement with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.

"(III) The Secretary shall grant or deny a waiver under clause (ii) not later than 7 days after the date that the Secretary receives the amplification for the waiver.

(b) Regulations.—The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver as provided in paragraph (F)(ii) of section 214(c)(2), as added by subsection (a).

SEC. 342. L–1 EMPLOYER PETITION REQUIREMENTS FOR EMPLOYMENT AT NEW OFFICES.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

"(G)(i) If the beneficiary of a petition under this paragraph is coming to the United States to open, or be employed in, a new office, the petition may be approved for up to 12 months only if—

"(I) the alien has not been the beneficiary of 2 or more petitions under this subparagraph during the immediately preceding 2 years; and

"(II) the employer operating the new office has—

"(aa) an adequate business plan;

"(bb) sufficient physical premises to carry out the proposed business;

"(cc) the financial ability to commence doing business immediately upon the approval of the petition.

"(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

"(I) evidence that the importing employer meets the requirements of this subsection;

"(II) evidence that the beneficiary of the petition is eligible for nonimmigrant status under section 101(a)(15)(L);

"(III) a statement summarizing the original petition;

"(IV) evidence that the importing employer has fully complied with the business plan submitted under this section;

"(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

"(VI) evidence that the importing employer, for the entire period beginning on the date on which the petition was approved under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods and services;

"(VII) a statement of the duties the beneficiary will perform at the new office during the approval period under clause (i) and the duties the beneficiary will perform at the new office during the extension period granted under this clause;

"(VIII) a statement describing the staffing at the new office, including the number of employees and the types of positions held by such employees;

"(IX) evidence of wages paid to employees;

"(X) evidence of the financial status of the new office; and

"(XI) any other evidence or data prescribed by the Secretary.

"(iii) A new office employing the beneficiary of an L–1 petition approved under this paragraph shall do business only through regular, systematic, and continuous provision of goods and services for the entire period during which the petition is pending.

"(iv) Notwithstanding clause (ii), and subject to the maximum period of authorized
admission set forth in subparagraph (D), the Secretary of Homeland Security, in the Secretary’s discretion, may approve a subsequently filed petition on behalf of the beneficiary.

(2) The Secretary shall provide the employer with the procedures described in this subparagraph for a period beyond the initially granted 12-month period if the importing employer has been doing business in the United States office through a systematic, and continuous provision of goods and services for the 6 months immediately preceding the date of extension.

(3) The Secretary shall provide the interested parties with notice of such determination and an opportunity for a hearing in accordance with section 706 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

(4) The Secretary, after a hearing, finds that the employer has violated the requirements under this subsection, the Secretary shall impose a penalty under subparagraph (L).

(5) The Secretary may conduct surveys of the degree to which employers comply with the requirements under this section.

(6) The Secretary may impose a penalty under subparagraph (L) for a cumulative period of time in excess of 1 year shall—

(I) offer such nonimmigrant, during the fiscal year, a wage level for the occupational classification in the area of employment; and

(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

(7) If the Secretary finds, after notice and an opportunity for a hearing, that an employer has willfully violated the requirements of this section, the Secretary shall impose an administrative penalty in an amount not to exceed $2,000 per violation as the Secretary determines to be appropriate.

(8) The Secretary may, at any time, approve a petition for an employer to meet a condition under subparagraph (F), (G), (J), or (L) or a misrepresentation of material fact in a petition to employ 1 or more nonimmigrants described in section 101(a)(15)(L).
to take, fail to take, or threaten to take or fail to take, a personnel action, or to intimidate, threaten, restrain, coerce, blacklist, discharge, or discriminate in any other manner against an employee because the employee—

(I) has disclosed information that the employee reasonably believes evidences a violation of any law or any rule or regulation pertaining to this subsection; or

(II) cooperates or seeks to cooperate with the requirements of this subsection, or any rule or regulation pertaining to this subsection.

(ii) In this subparagraph, the term "employee" includes—

(I) a current employee; and

(II) a former employee; and

(III) an applicant for employment.

SEC. 348. REPORTS ON L-1 NONIMMIGRANTS.

Section 214(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(8)) is amended by inserting "(L)," after "(H),".

SEC. 349. TECHNICAL AMENDMENTS.

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security".

SEC. 350. APPLICATION.

The amendments made by sections 341 through 349 shall apply to applications filed on or after the date of the enactment of this Act.

SEC. 351. REPORT ON L-1 BLANKET PETITION PROCESS.

(a) REQUIREMENT FOR REPORT.—Not later than 6 months after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the appropriate committees of Congress a report regarding the use of blanket petitions under section 214(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)(A)). Such report shall assess the efficiency and reliability of the process for reviewing such blanket petitions, including whether the process includes adequate safeguards against fraud and abuse.

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this section the term ‘‘appropriate committees of Congress’’ means—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Homeland Security of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

SA 4660. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 102. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—The Secretary of Homeland Security may not approve a petition by an employer for any visa authorizing employment in the United States unless the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is scheduled to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act after the approval of a visa described in subsection (a), any visas approved during the most recent 12-month period immediately preceding the date on which such employer shall expire on the date that is 60 days after the date on which such notification is provided. The expiration of a visa under this subsection shall not be subject to judicial review.

(c) NOTICE REQUIREMENT.—Upon receiving notification of dismissal from an employer, the Secretary of Homeland Security shall inform each employee whose visa is scheduled to expire under subsection (b) that such individual will no longer be authorized to work in the United States; and

(d) RULING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Labor shall promulgate regulations to carry out this section, including a requirement that employers provide notice to the Secretary of Homeland Security of a mass layoff (as defined in section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101)).

SA 4661. Mr. DURBIN (for Mr. LIEBERMAN) proposed an amendment to the bill S. 553, to require the Secretary of Homeland Security to develop a strategy to prevent the overclassification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes; as follows:

In lieu of the text proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing Over-Classification Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Commission on Terrorism Attacks Upon the United States (commonly known as the "9/11 Commission") concluded that security requirements nurture overclassification and excessive compartmentation of information among agencies.

(2) The 9/11 Commission and others have observed that the over-classification of information interferes with accurate, actionable, and timely information sharing, increases the cost of information security, and needlessly limits stakeholder and public access to information.

(3) Over-classification of information causes considerable confusion regarding what information may be shared with whom, and negatively affects the dissemination of information to Federal, State, local, and tribal governments (including State, local, and tribal law enforcement agencies) and private sector entities.

(4) Over-classification of information is antithetical to the coordination and operation of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(5) Federal departments or agencies authorized to make original classification decisions have indicated that performing derivative classification of information are responsible for developing, implementing, and administering policies, procedures, and programs that promote compliance with executive orders, and other authorities pertaining to the proper use of classification markings and the policies of the National Archives and Records Administration.

SEC. 3. DEFINITIONS.

In this Act:

(1) DERIVATIVE CLASSIFICATION AND ORIGINAL CLASSIFICATION.—The terms "derivative classification" and "original classification" have the meanings given those terms in Executive Order No. 13526.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given in such term in section 105 of title 5, United States Code.

(3) EXECUTIVE ORDER NO. 13526.—The term "Executive Order No. 13526" means Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) or any subsequent corresponding executive order.

SEC. 4. CLASSIFIED INFORMATION ADVISORY OFFICER.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by adding at the end the following:

"SEC. 210F. CLASSIFIED INFORMATION ADVISORY OFFICER.

(1) REQUIREMENT TO ESTABLISH.—The Secretary shall establish an individual to be known as the "Classified Information Advisory Officer;" and

(2) RESPONSIBILITIES.—The responsibilities of the Classified Information Advisory Officer shall be as follows:

(1) To develop and disseminate educational materials designed to develop and administer training programs to assist State, local, and tribal governments (including State, local, and tribal law enforcement agencies) and private sector entities—

(A) in developing plans and policies to respond to requests related to classified information without communicating such information to individuals who lack appropriate security clearances;

(B) regarding the appropriate procedures for challenging classification designations of information received by personnel of such entities; and

(C) on the means by which such personnel may apply for security clearances;

(2) To inform the Under Secretary for Intelligence and Analysis on policies and procedures that could facilitate the sharing of classified information with such personnel, as appropriate.

(3) INITIAL DESIGNATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall—

(1) designate the initial Classified Information Advisory Officer; and

(2) submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a written notification of the designation.

(b) CLEANCERT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the item relating to section 210F the following:

"Sec. 210F. Classified Information Advisory Officer."
STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR

reasonably expected to be of benefit to a
and other entities; and
agencies and authorities, the private sector,
derived by the Department) in order to—
analysis, and vulnerability assessments (re-
of the 2002 (6 U.S.C. 121(d)) is amended to read as
"(A) identify priorities for protective and
and other threats to homeland security by the
increased use, in appropriate cases, and in-
and private sector entities; and
appropriate, to the Secretary or the Secretary's
"(ii) policies and procedures requiring the increased use, in appropriate cases, and in-
cluding portion markings, of the classification
information within one intelligence product.
"(ii) guidance to standardize, in appropriate cases, the classification of intelligence products created by ele-
ments of the intelligence community for purposes of promoting the sharing of intel-
ligence products; and
"(ii) policies and procedures requiring the increased use, in appropriate cases, and in-
cluding portion markings, of the classification
tion of portions of information within one intelligence product.
(b) CREATION OF UNCLASSIFIED INTEL-
ligence PRODUCTS AS APPROPRIATE FOR
STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR
Stakeholders.
(1) RESPONSIBILITIES OF SECRETARY RELATING
TO INTELLIGENCE AND ANALYSIS AND IN-
FRASTRUCURE PROTECTION.—Paragraph (5) of
section 2010(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended to read as
follows:
"(5) To integrate relevant information,
analysis, and vulnerability assessments (regard-
less of whether such information, analysis
or assessments are provided by or pro-
duced by the Department of Homeland
Security, the Department of Energy, the De-
partment of Defense, or any other Federal
agency), and in consultation with the Infor-
ma
...
SEC. 1082. ANNUAL LEAVE FOR FAMILY OF DEPLOYED MEMBERS OF THE UNIFORMED SERVICES.

(a) In General.—Paragraph III of title 38, United States Code, is amended by adding at the end the following new chapter:

“CHAPTER 44—ANNUAL LEAVE FOR FAMILY OF DEPLOYED MEMBERS OF THE UNIFORMED SERVICES

“Sec.

“§ 4401. Definitions

“(a) In General.—An employer may require that a request for leave under section 4402(a) of this title be supported by a certification of entitlement to such leave.

“(b) TIMELINESS OF CERTIFICATION.—An eligible employee shall provide, in a timely manner, a copy of the certification required by subsection (a) to the employer.

“(c) SUFFICIENT CERTIFICATION.—A copy of the notification, call, or order described in section 4402(a)(2) of this title shall be considered sufficient certification of entitlement to leave for purposes of providing certification under this section.

“§ 4402. Leave requirement.

“(a) ENTITLEMENT TO LEAVE.—In any 12-month period, an eligible employee shall be entitled to two workweeks of leave for each family member of the eligible employee who, during such 12-month period—

“(1) is in the uniformed services;

“(2)(A) receives notification of an impending call or order to active duty in support of a contingency operation; or

“(B) is deployed in connection with a contingency operation.

“(b) LEAVE TAKEN INTermittently or on REDuced LEAVE SCHEDULE.—(1) Leave under subsection (a) may be taken by an eligible employee intermittently or on a reduced leave schedule as the eligible employee considers appropriate.

“(2) The taking of leave intermittently or on a reduced leave schedule pursuant to this subsection shall not result in a reduction in the total amount of leave to which the eligible employee is entitled under subsection (a) beyond the amount of leave actually taken.

“(c) PAID LEAVE PERMITTED.—Leave granted under subsection (a) may consist of paid leave or unpaid leave as the employer of the eligible employee considers appropriate.

“(d) RELATIONSHIP TO PAID LEAVE.—(1) If an employer provides paid leave to an eligible employee for fewer than the total number of workweeks of leave that the eligible employee is entitled to under subsection (a), the additional amount of leave necessary to attain the total number of workweeks of leave required under subsection (a) may be provided as unpaid compensation.

“(2) An eligible employee may elect, and an employer may not require the eligible employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the eligible employee for leave provided under subsection (a) for any part of the total period of such leave the eligible employee is entitled to under such subsection.

“(e) NOTICE FOR LEAVE.—In any case in which an eligible employee chooses to use leave under subsection (a), the eligible employee shall provide such notice to the employer as is reasonable and practicable.

“§ 4403. Certification.

“(a) IN GENERAL.—An eligible employee may require that a request for leave under section 4402(a) of this title be supported by a certification of entitlement to such leave.

“(b) TIMELINESS OF CERTIFICATION.—An eligible employee shall provide, in a timely manner, a copy of the certification required by subsection (a) to the employer.

“(c) SUFFICIENT CERTIFICATION.—A copy of the notification, call, or order described in section 4402(a)(2) of this title shall be considered sufficient certification of entitlement to leave for purposes of providing certification under this section.

“§ 4404. Employment and benefits protection.

“(a) PROHIBITED ACTIONS.—(1) An employer may require that an eligible employee provides such notice to the employer as is reasonable and practicable.

“(b) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

“(1) the accrual of any seniority or employment benefits during any period of leave; or

“(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

“§ 4405. Prohibited acts.

“(a) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this chapter.

“(b) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any manner discriminate against any individual for exercising any practice made unlawful by this chapter.

“§ 4406. Enforcement.

“The provisions of subchapter III of chapter 43 of this title shall apply with respect to the provisions of this chapter as if such provisions were incorporated into and made part of this chapter.

“§ 4407. Miscellaneous provisions.

“The provisions of subchapter IV of chapter 43 of this title shall apply with respect to the provisions of this chapter as if such provisions were incorporated into and made part of this chapter.

“CHAPTER 102—UNITED STATES SECRET SERVICE UNIFORMED DIVISION PERSONNEL

“Sec.

“§ 10201. Definitions

“(a) PAY FOR MEMBERS OF THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION.—Subpart 1 of part III of title 5, United States Code, is amended by adding at the end the following:

“(b) C LERICAL AMENDMENTS.—The table of parts in section 3066 of title 5, United States Code, is amended—

“(1) in the table of parts at the beginning of part I, in the heading of part II, by striking out ‘‘COMMENTS’’ and inserting ‘‘COMMENTS’’;

“(2) in the table of parts at the beginning of part III, by striking out ‘‘COMMENTS’’ and inserting ‘‘COMMENTS’’.

“SA 4663. Mr. CASEY (for Mr. AKAKA (for himself and Mr. VOINOVICH)) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes; as follows:

On page 2, strike lines 21 through 25 and insert the following:

“SA 4664. Mr. CASEY (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes; as follows:

On page 3, line 18, insert ‘‘as required under paragraph (2)’’ after ‘‘website’’.

SA 4664. Mr. CASEY (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1510, to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes; as follows:

SEC. 2. HUMAN RESOURCES FOR UNITED STATES SECRET SERVICE UNIFORMED DIVISION.

(a) PAY FOR MEMBERS OF THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION.—Subpart 1 of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 102—UNITED STATES SECRET SERVICE UNIFORMED DIVISION PERSONNEL

“Sec.

“§ 10201. Definitions

“(a) PAY FOR MEMBERS OF THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION.—Subpart 1 of part III of title 5, United States Code, is amended by adding at the end the following:

“SA 4663. Mr. CASEY (for Mr. AKAKA (for himself and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 446, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; as follows:

On page 2, line 9, strike ‘‘relevant to’’ and insert ‘‘necessary for’’.
"§ 10202. Authorities

(a) In GENERAL.—The Secretary is authorized to—

(1) fix and adjust rates of basic pay for members of the United States Secret Service Uniformed Division, subject to the requirements of this chapter;

(2) determine what constitutes an acceptable level of competence for the purposes of section 10206;

(3) establish and determine the positions at the Officer and Sergeant ranks to be included as technician positions; and

(4) determine the rate of basic pay of a member who is changed or demoted to a lower rank, in accordance with section 10208.

(b) DELEGATION OF AUTHORITY.—The Secretary is authorized to delegate to the designated agent or agents of the Secretary, any power or function vested in the Secretary under this chapter.

(c) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to administer this chapter.

§ 10203. Basic pay

(a) In GENERAL.—The annual rates of basic pay of members of the United States Secret Service Uniformed Division shall be fixed in accordance with the following schedule of rates, except that the payable annual rate of basic pay for positions at the Lieutenant, Captain, and Inspector ranks is limited to 95 percent of the rate of level V of the Executive Schedule under subchapter II of chapter 53.

(b) Schedule adjustment.—

(1)(A) Effective at the beginning of the first pay period commencing on or after the first day of the month in which an adjustment is made to the rates of basic pay under the General Schedule takes effect under section 5303 or other authority, the schedule of annual rates of basic pay of members (except the Deputy Chiefs, Assistant Chief, and Chief) shall be adjusted by the Secretary by a percentage amount corresponding to the percentage adjustment made in the rates of pay under the General Schedule.

(B) The Secretary may establish a methodology of schedule adjustment that—

(i) results in uniform fixed-dollar step increments within any given rank; and

(ii) preserves the established percentage differences among rates of different ranks at the same step position.

(2) Notwithstanding paragraph (1), the payable annual rate of basic pay for positions at the Lieutenant, Captain, and Inspector ranks after adjustment under paragraph (1) may not exceed 95 percent of the rate of pay for level V of the Executive Schedule under subchapter II of chapter 53.

(3) Locality-based comparability payments under section 5304 shall be applicable to the basic pay for all ranks under this section, except locality-based comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the member, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

§ 10204. Rate of pay for original appointees

(a) In GENERAL.—Except as provided in subpart (b), all original appointments shall be made at the minimum rate of basic pay for the Officer rank set forth in the schedule in section 10203.

(b) Exception for Superior Qualifications or Special Need.—The Director of the United States Secret Service or the designee of the Director may appoint an individual at a rate above the minimum rate of basic pay for the Officer rank based on the individual's superior qualifications or a special need of the United States Secret Service's services.

§ 10205. Service step adjustments

(a) Definition.—In this section, the term 'calendar week of active service' includes all periods of leave with pay or other paid time off, any periods of non-pay status which do not cumulatively equal one 40-hour workweek.

(b) Adjustments.—Each member whose current performance is at an acceptable level of competence shall have a service step adjustment as follows:

(1) Each member in service step 1, 2, or 3 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 52 calendar weeks of active service in the member's service step.

(2) Each member in service step 4, 5, 6, 7, 8, 9, 10, or 11 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 104 calendar weeks of active service in the member's service step.

(3) Each member in service step 12 shall be advanced successively to the next higher service step at the beginning of the first pay period immediately following the completion of 156 calendar weeks of active service in the member's service step.

§ 10206. Technician positions

(a) In GENERAL.—(1) Each member whose position is determined under section 10202(a)(3) to be included as a technician position shall, on or after such date, receive, in addition to the member's scheduled rate of basic pay, an amount equal to 6 percent of the sum of such member's rate of basic pay and the applicable locality-based comparability payment.

(2) A member described in this subsection shall receive the additional compensation authorized by this subsection until such time as the member's position is determined under section 10202(a)(3) to not be a technician position, or until the member no longer occupies such position, whichever occurs first.

(3) The additional compensation authorized by this subsection shall be paid to a member in the same manner and at the same time as the member's basic pay is paid.

(b) Exceptions.—(1) Except as provided in paragraph (2), the additional compensation authorized by subsection (a)(1) shall be considered as basic pay for all purposes, including section 8401(b).

(2) The additional compensation authorized by subsection (a)(1) shall not be considered as basic pay for the purposes of—

(A) section 5304; or

(B) section 7511(a)(4).

(3) The loss of the additional compensation authorized by subsection (a)(1) shall not constitute an adverse action for the purposes of section 7512.

§ 10207. Promotions

(a) In GENERAL.—Each member who is promoted to a higher rank shall receive basic pay at the same step at which such member was last compensated prior to the date of the promotion.

(b) Credit for service.—For the purposes of a service step adjustment under sections 10203 or 10205, periods of service at the lower rank shall be credited in the same manner as if it was service at the rank to which the employee is promoted.

§ 10208. Demotions

When a member is changed or demoted from any rank to a lower rank, the Secretary may fix the member's rate of basic pay at the rate of pay for any step in the lower rank which does not exceed the lowest step in the lower rank for which the rate of basic pay is equal to or greater than the member's existing rate of basic pay.

§ 10209. Clothing allowances

(a) In GENERAL.—In addition to the benefits provided under section 5501, the Director of the United States Secret Service or the designee of the Director is authorized to provide clothing allowance to an officer assigned to perform duties in normal business or work attire purchased at the discretion of the employee. Such clothing allowance shall not be treated as basic pay or any purpose (including retirement purposes) and shall not be used for the purpose of computing the employee's overtime rate, pay during leave or other paid time off, lump-sum payments under section 5501 or section 5502, workers' compensation, or any other benefit. Such allowance for any member shall be discontinued at any time upon written notification by the Director of the United States Secret Service or the designee of the Director.

(b) Maximum amount authorized.—A clothing allowance authorized under this section shall not exceed $500 per annum.

§ 10210. Reporting requirement

Not later than 3 years after the date of the enactment of this chapter, the Secretary shall prepare and transmit to Congress a report on the operation of this chapter. The report shall include—

(1) an assessment of the effectiveness of this chapter with respect to efforts of the Secretary to recruit and retain well-qualified personnel; and

(2) recommendations for any legislation or administrative action which the Secretary considers appropriate.”. 
(b) ANNUAL LEAVE LIMITATION FOR MEMBERS IN THE DEPUTY CHIEF, ASSISTANT CHIEF, AND CHIEF RANKS.—Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (F), by striking "or" after the semicolon;
(2) in subparagraph (G), by striking the period and inserting "; or"; and
(3) by adding at the end the following:

"(H) a position in the United States Secret Service Uniformed Division at the rank of Deputy Chief, Assistant Chief, or Chief.";

(c) SICK LEAVE FOR WORK-RELATED INJURIES AND ILLNESSES.—Section 6324 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "Executive Protective Service force' and inserting "United States Secret Service Uniformed Division';
(2) in subsection (b), by striking "the Treasury for the Executive Protective Service force' and inserting "Homeland Security for the United States Secret Service Uniformed Division';
(3) by adding at the end the following:

"(c) This section shall not apply to members of the United States Secret Service Uniformed Division who are covered under chapter 84 for the purpose of retirement benefits.'

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) CONVERSION TO NEW SALARY SCHEDULE.—

(1) IN GENERAL.—

(A) PAY BASE FIXED.—Effective the first day of the first pay period which begins after the date of the enactment of this Act, the Secretary shall fix the rates of basic pay for members of the United States Secret Service Uniformed Division, as defined under section 10201 of title 5, United States Code, (as added by section 2(a)) in accordance with the provisions of this subsection.

(B) RATE BASED ON CREDITABLE SERVICE.—

(I) IN GENERAL.—Each member shall be placed in and receive basic pay at the corresponding scheduled rate under chapter 102 of title 5, United States Code, as added by section 2(a) (after any adjustment under paragraph (3) of this subsection) in accordance with the member's total years of creditable service, as provided in the table in this clause. If the scheduled rate of basic pay for the step to which the member would be assigned in accordance with this paragraph is lower than the member's rate of basic pay immediately before the date of enactment of this paragraph, the member shall be placed in and receive basic pay at the next higher service step, subject to the provisions of clause (iv). If the member's rate of pay exceeds the highest step of the rank, the rate of basic pay shall be determined in accordance with clause (iv).

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<th>Full Years of Creditable Service</th>
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(B) CREDITABLE SERVICE.—For the purposes of this subsection, a member's creditable service is the basic pay status of such member with the United States Secret Service Uniformed Division, the United States Park Police, or the District of Columbia Metropolitan Police Department.

(2) CREDITABLE SERVICE MAXIMUM RATE.—

(I) IN GENERAL.—A member who, at the time of conversion, is in step 13 of any rank below Deputy Chief, is entitled to that rate of basic pay which is the greater of—

(aa) the rate of pay for step 13 under the new salary schedule; or

(bb) the rate of pay for step 14 under the pay schedule in effect immediately before conversion.

(II) STEP 14 RATE.—Clause (iv) shall apply to a member whose pay is set in accordance with subclause (I)(b).

(iv) ADJUSTMENT BASED ON FORMER RATE OF PAY.—

(1) DEFINITION.—In this clause, the term "former rate of basic pay" means the rate of basic pay last received by a member before the conversion.

(II) IN GENERAL.—If, as a result of conversion to the new salary schedule, the member's former rate of basic pay is greater than the maximum rate of basic pay payable for the rank of the member's position immediately after the conversion, the member is entitled to basic pay at a rate equal to the member's former rate of basic pay, and increased at the time of any increase in the maximum rate of basic pay payable for the rank of the member's position by 50 percent of the dollar amount of each such increase.

(III) PROMOTIONS.—For the purpose of applying section 10207 of title 5, United States Code, relating to promotions, (as added by section 2(a)) an employee receiving a rate above the maximum rate as provided under this clause shall be deemed to be at step 13.

(2) CREDIT FOR SERVICE.—Each member whose position is converted to the salary schedule under chapter 102 of title 5, United States Code, (as added by section 2(a)) in accordance with this subsection shall be granted credit for purposes of such member's first service after conversion to the salary schedule under that chapter for all satisfactory service performed by the member since the member's last increase in basic pay before the adjustment under this section.

(3) ADJUSTMENTS DURING TRANSITION.—The schedule of rates of basic pay shall be increased by the percentage of any annual adjustment applicable to the General Schedule authorized under section 5303 of title 5, United States Code, or any other authority, which takes effect during the period beginning on January 1, 2010, through the last day of the last pay period preceding the first pay period which begins after the date of the enactment of this Act. The Secretary of Homeland Security may establish a methodology of schedule adjustment that results in uniform dollar amounts within any given rank and preserves the established percentage differences among rates of different ranks at the same step position.

(b) IMPACT ON BENEFITS UNDER THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT AND DISABILITY SYSTEM.—

(1) SALARY INCREASES FOR PURPOSES OF CERTAIN PENSIONS AND ALLOWANCES.—For purposes of section 3 of the Act entitled "An Act to provide increased pensions for widows and children of deceased members of the Police Department and the Fire Department of the District of Columbia", approved August 4, 1949 (sec. 5–744, D.C. Official Code) and section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (sec. 5–745, D.C. Official Code)—

(A) the conversion of positions and members of the United States Secret Service Uniformed Division to appropriate ranks in the salary schedule set forth in this Act and the payments made by the United States Secret Service Uniformed Division on the date of the enactment of this Act; and

(B) any adjustment of rates of basic pay of those positions and individuals in accordance with this Act and the amendments made by this Act, which is made after such conversion shall be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act.

(2) TREATMENT OF RETIREMENT BENEFITS AND PENSIONS OF CURRENT AND FORMER MEMBERS.—Except as otherwise provided in this Act, nothing in this Act shall affect retirement benefits and pensions of current members and former members who have retired under the District of Columbia Police and Firefighters' Retirement and Disability System.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—To the extent that any provision of any law codified in the District of Columbia Official Code that authorizes an employee to pay retirement contributions for the current members of the United States Secret Service Uniformed Division is not expressly revoked by this Act, such provision shall not apply to such members after the effective date of this Act.

(b) ADDITIONS AND CONFORMING AMENDMENTS TO LAWS CODIFIED IN DISTRICT OF COLUMBIA OFFICIAL CODE.—The following laws codified in the District of Columbia Official Code are amended—

(1) The Act entitled "An Act to provide for granting to officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, and the United States Park Police forces additional compensation for working on holidays", approved October 24, 1915, is amended—

(A) in the second sentence of section 1 (sec. 5–521.01, D.C. Official Code), by striking "the Fire Department of the District of Columbia," and all that follows through "the United States Park Police force" and inserting "the Fire Department of the District of Columbia, and the United States Park Police Force";

(B) in section 2 (sec. 5–521.02, D.C. Official Code), by striking "and with respect" and all that follows through "United States Park Police force" and inserting "and with respect to officers and members of the United States Park Police force"; and

(C) in section 3 (sec. 5–523.03, D.C. Official Code), by striking "shall be applicable" and all that follows and inserting the following: "shall be applicable to the United States Park Police force under regulations promulgated by the Secretary of the Interior.".

(2) The District of Columbia Police and Firemen's Salary Act of 1958 is amended as follows:

(A) in section 202 (sec. 5–542.02, D.C. Official Code), by striking "United States Secret Service Uniformed Division,".
SA 4665. Mr. CASEY (for Mrs. FEINSTEIN (for herself and Mr. BOND)) proposed an amendment to the bill H.R. 2701, to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2010.”

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: Sec. 1. Short title; table of contents. Sec. 2. Definitions.

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS


TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Technical modification to mandatory retirement provision of the Central Intelligence Agency Retirement Act.
Sec. 348. Information access by the Comptroller General of the United States.
Sec. 349. Conforming amendments for report submission dates.
Sec. 371. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.
Sec. 372. Modification of availability of funds for different intelligence activities.
Sec. 373. Protection of certain national security information.
Sec. 374. National Intelligence Program budget.
Sec. 375. Improving the review authority of the Public Interest Declassification Board.
Sec. 376. Authority to designate undercover operations to collect foreign intelligence or counterintelligence.
Sec. 377. Security clearances: reports; reciprocity.
Sec. 378. Correcting long-standing material weaknesses.
Sec. 379. Intelligence community financial improvement and audit readiness.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence
Sec. 401. Accountability reviews by the Director of National Intelligence.
Sec. 402. Authorities for intelligence information sharing.
Sec. 403. Location of the Office of the Director of National Intelligence.
Sec. 404. Title and appointment of Chief Information Officer of the Intelligence Community.
Sec. 405. Inspector General of the Intelligence Community.
Sec. 406. Chief Financial Officer of the Intelligence Community.
Sec. 407. Leadership and location of certain offices and officials.
Sec. 408. Protection of certain files of the Office of the Director of National Intelligence.
Sec. 409. Counterintelligence initiatives for the intelligence community.
Sec. 410. Inspectors General of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
Sec. 411. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
Sec. 412. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
Sec. 413. Misuse of the Office of the Director of National Intelligence name, initials, or seal.
Sec. 414. Plan to implement recommendations of the data center energy efficiency reports.
Sec. 415. Director of National Intelligence support for reviews of Internet Traffic in Arms Regulations and Export Administration Regulations.

Subtitle B—Central Intelligence Agency
Sec. 421. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
Sec. 422. Appeals from decisions involving contracts of the Central Intelligence Agency.
Sec. 423. Deputy Director of the Central Intelligence Agency.
Sec. 424. Authority to authorize travel on a common carrier.
Sec. 425. Inspector General for the Central Intelligence Agency.
Sec. 427. Public availability of unclassified versions of certain intelligence products.

Subtitle C—Defense Intelligence Components
Sec. 431. Inspector general matters.
Sec. 432. Clarification of national security missions of the National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.
Sec. 433. Director of Compliance of the National Security Agency.
Subtitle D—Other Elements
Sec. 441. Codification of additional elements of the intelligence community.
Sec. 442. Authorization of appropriations for the Coast Guard National Tactical Integration Office.
Sec. 443. Retention and relocation bonuses for the Federal Bureau of Investigation.
Sec. 444. Extension of the authority of the Federal Bureau of Investigation to waive mandatory retirement provisions.

TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE
Sec. 501. Reorganization of the Diplomatic Telecommunications Service Program Office.

TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMITTEE ACT
Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Establishment and functions of the Committee.
Sec. 604. Members and staff of the Commission.
Sec. 605. Powers and duties of the Commission.
Sec. 607. Termination.
Sec. 608. Non applicability of Federal Advisory Committee Act.
Sec. 609. Authorization of appropriations.

TITLE VII—OTHER MATTERS
Sec. 701. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
Sec. 702. Classification review of executive branch materials in the possession of the congressional intelligence committees.

TITLE VIII—TECHNICAL AMENDMENTS
Sec. 801. Technical amendments to the Foreign Intelligence Surveillance Act of 1978.
Sec. 802. Technical amendments to the Central Intelligence Agency Act of 1949.
Sec. 803. Technical amendments to title 10, United States Code.
Sec. 804. Technical amendments to the National Security Act of 1947.
Sec. 805. Technical amendments relating to the multiyear National Intelligence Program.
Sec. 806. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.

SEC. 2. DEFINITIONS.
In this Act:
(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ‘‘congressional intelligence committees’’ means—
(A) the Select Committee on Intelligence of the Senate; and
(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term ‘‘intelligence community’’ has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 403a(4)).

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.
For the purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), appropriated funds available for intelligence agency may be obligated or expended for an intelligence or intelligence-related activity as appropriated for fiscal year 2010, as modified by such reprogramming and transfers of funds authorized by and reported to the appropriate congressional committees.

SEC. 102. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.
The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 103. BUDGETARY PROVISIONS.
The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 1990, shall be determined by reference to the latest statement titled ‘‘Budgetary Effects of PAYGO Legislation’’ for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the report on passage.
SEC. 302. ENHANCED FLEXIBILITY IN NONREimbursable DETAILS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) In General.—The National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 113 the following new section:

"DETAIL OF OTHER PERSONNEL."

"(Sec. 113A. Detail of other personnel.)—Relating to section 113 the following new section shall be added to the Act:

"Sec. 113A. Detail of other personnel...

SEC. 303. PAY AUTHORITY FOR CRITICAL POSITIONS.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403) is amended by adding at the end the following new subsection:

"(s) PAY AUTHORITY FOR CRITICAL POSITIONS.—(1) Notwithstanding any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence, may in coordination with the Director of Management and Budget, grant authority to the head of a department or agency to fix the rate in excess of any applicable limitation, subject to the provisions of this subsection.

(2) The exercise of authority granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, to the extent that the individual is critical to the successful accomplishment of an important mission, and to the extent that the individual is exceptionally well qualified for the position.

(3) The rate of basic pay payable to such a member or officer is subject to the provisions of law applicable to employees in elements of the intelligence community.

(4) The head of a department or agency shall determine and report to the Director of Management and Budget the rate of basic pay per year for each position at which the person or officer is to be employed or contracted. Such determination shall be based on an assessment of the criticality of the position and the importance of the position to the successful accomplishment of an important mission. Such report shall be subject to a review by the Director of Management and Budget.

(b) APPLICABILITY.—The provisions of paragraph (1) do not apply to positions at the senior level.

§ 506B. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY

(a) General.—The Inspector General of the National Intelligence Community shall, in consultation with the head of each element of the intelligence community, prepare an annual assessment of personnel levels for each fiscal year following the fiscal year in which the assessment is submitted.

(b) Table of Contents Amendment.—The table of contents relating to this title is amended by inserting after title V the following new title:

"ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY

§ 506B. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY

(a) General.—The Inspector General of the National Intelligence Community shall, in consultation with the head of each element of the intelligence community, prepare an annual assessment of personnel levels for each fiscal year following the fiscal year in which the assessment is submitted.

(b) Schedule.—Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

(c) Contents.—Each assessment required by subsection (a) shall contain the following:

(1) The budget submission for personnel costs during the prior 5 fiscal years.

(2) The current fiscal year assessment.

(3) The best estimate of the number and cost of core personnel levels.

(4) The numerical and percentage increase or decrease of such number and such costs from the prior fiscal year.

(d) Application.—The provisions of paragraph (1) do not apply to positions at the senior level.

§ 306. TEMPORARY PERSONNEL AUTHORIZATIONS FOR CRITICAL LANGUAGE TRAINING

(a) A temporary personnel authorization may be used only for the purposes described in subparagraph (B).

(b) Except as provided in subparagraph (C), the Director of National Intelligence may use a temporary personnel authorization to authorize a request by the Director of Management and Budget for critical language training.

(c) The Director of National Intelligence may use a temporary personnel authorization to authorize a request by the Director of Management and Budget for critical language training.
“(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

(C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).

(D) The Director of National Intelligence shall report to the congressional intelligence committees an annual report on the use of authorities under this paragraph.

Each such report shall include a description of—

(i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

(ii) the critical language needs that were fulfilled or partially fulfilled through the use of such transfers; and

(iii) the cost to carry out subparagraph (B).”.

SEC. 307. CONFLICT OF INTEREST REGULATIONS FOR INTELLIGENCE COMMUNITY EMPLOYEES.

Section 102a of the National Security Act of 1947 (50 U.S.C. 403–I), as amended by section 304 of this Act, is further amended by adding at the end the following new subsection:

“(u) CONFLICT OF INTEREST REGULATIONS.—(1) The Director of National Intelligence in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appears thereof.

(2) The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all off-duty employment or off-duty activities of employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year. Such report shall be submitted each year on the date provided in section 507.”.

Subtitle B—Education Programs

SEC. 311. PERMANENT AUTHORIZATION FOR THE PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.

(a) PERMANENT AUTHORIZATION.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), is amended by adding at the end the following new section:

“(a) PROGRAM.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.) is further amended by adding at the end the following new section:

“SEC. 1022. (a) PROGRAM.—(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which off-duty activities or former employees of elements of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

(2) A student or former student selected for participation in the program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

(3) The program shall be known as the Pat Roberts Intelligence Scholars Program.

(b) ELEMENTS.—In carrying out the program under subsection (a), the Director shall—

(1) establish such requirements relating to the academic training of participants as the Director considers appropriate; and

(2) periodically review the areas of specialization of the elements of the intelligence community to determine the areas in which such elements are, or are likely to be, deficient in capabilities.

(c) USE OF FUNDS.—Funds made available for the program under subsection (a) shall be used—

(1) to provide a monthly stipend for each month that a student is pursuing a course of study;

(2) to pay the full tuition of a student or former student for the completion of such course of study;

(3) to pay for books and materials that the student or former student requires or required to complete such course of study;

(4) to pay the expenses of the student or former student for travel requested by an element of the intelligence community in relation to such program; or

(5) for such other purposes the Director considers reasonably appropriate to carry out such program.”.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 305 of this Act, is further amended—

(A) by transferring the item relating to section 1002 so such item immediately follows the item relating to section 1001; and

(B) by inserting after the item relating to section 1021 the following new item:

“Sec. 1022. Program on recruitment and training.”.

(2) REPEAL OF PILOT PROGRAM.—

(A) AUTHORITY.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is repealed.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is amended by striking the item relating to section 318.

SEC. 312. MODIFICATIONS TO THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.

(a) EXPANSION OF THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM TO GRADUATE STUDENTS.—Section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in paragraph (1)—

(I) in the matter preceding subparagraph (A), strike “an employee of the Agency,” and insert “a program participant,”

(bb) by striking “employee” and inserting “program participant”;

(II) by striking “employee” each place that term appears and inserting “program participant”;

(bb) by striking “employee’s” each place that term appears and inserting “program participant’s”;

(2) in paragraph (2)(B)(i)—

(A) strike “employee” both places that term appears and inserting “program participant”;

(B) by striking “employee’s” and inserting “program participant’s”;

(3) in paragraph (4)(A)—

(A) by striking “employee” both places that term appears and inserting “program participant”;

(B) by striking “employee’s” and inserting “program participant’s”;

(4) in paragraph (5)(C)—

(A) strike “employee” both places that term appears and inserting “program participant”;

(B) by striking “employee’s” and inserting “program participant’s”;

(5) by the program participant voluntarily;

(III) by the Agency for the failure of the program participant to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the program participant under this subsection; and

(d) AUTHORITY TO WITHHOLD DISCLOSURE OF AGENT EFFORTS.—Subsection (e) of Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking “(1) When an employee” and all that follows through “(II) in subparagraph” and inserting “(1) by the Agency due to misconduct by the program participant; and

(II) by the program participant voluntarily; or

(III) by the Agency for the failure of the program participant to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the program participant under this subsection; and

(e) AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO ESTABLISH A STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.

(1) AUTHORITY.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 311 of this Act, is further amended by adding at the end the following new section:

“SEC. 1023. The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program that the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 311 of this Act, is further amended by inserting after the item relating to section 1022, as added by such section 311, the following new item:

“Sec. 1023. Educational scholarship program.”.

SEC. 313. INTELLIGENCE OFFICER TRAINING PROGRAM.

(a) PROGRAM.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 312(c) of this Act, is further amended by adding at the end the following new section:

“SEC. 1023. Educational scholarship program.”.
"INTELLIGENCE OFFICER TRAINING PROGRAM"

"SEC. 1024. (a) PROGRAM.—(1) The Director of National Intelligence may carry out grant programs in accordance with subsection (b) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research.

(c) APPLICATION.—An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

(d) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(1) a description of the benefits to students who participate in the course of study funded by such grant;

(2) a description of the results and accomplishments related to such course of study; and

(3) any other information that the Director may require.

(e) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—In this section:

(1) the term 'Director' means the Director of National Intelligence.

(2) The term 'institution of higher education' has the meaning given the term in section 2(b) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))."

(b) INSTITUTIONAL GRANT PROGRAM.—(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research.

(c) APPLICATION.—An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

(d) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(1) a description of the benefits to students who participate in the course of study funded by such grant;

(2) a description of the results and accomplishments related to such course of study; and

(3) any other information that the Director may require.

"(e) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—In this section:

(1) the term 'Director' means the Director of National Intelligence.

(2) The term 'institution of higher education' has the meaning given the term in section 2(b) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))."

"SEC. 314. PILOT PROGRAM FOR INTENSIVE LANGUAGE INSTRUCTION IN AFRICAN LANGUAGES

(a) ESTABLISHMENT.—The Director of National Intelligence, in consultation with the National Security Education Board established under section 803(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(a)), may establish a pilot program for intensive language instruction in African languages.

(1) The Director shall provide the following:

(A) Technical assistance to institutions of higher education to support the establishment or continued development of programs that will provide individuals with the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

(B) Institutional grant program.

(c) APPLICATION.—An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

(d) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(1) a description of the benefits to students who participate in the course of study funded by such grant;

(2) a description of the results and accomplishments related to such course of study; and

(3) any other information that the Director may require.

"(e) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—In this section:

(1) the term 'Director' means the Director of National Intelligence.

(2) The term 'institution of higher education' has the meaning given the term in section 2(b) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))."
and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

"(5) The term ‘vulnerability assessment’ means the analysis of identifying and characterizing vulnerabilities in a major system and its significant items of supply.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 313 of this Act, is further amended by inserting after the item relating to section 506B, a new section 306(c) of this Act, the following new section:

“Sec. 506C. Vulnerability assessments of major systems.

(b) DEFINITION OF MAJOR SYSTEM.—Para-

(3) section 506A(e) of the National Security Act of 1947 (50 U.S.C. 413 et seq.), is amended by striking “in current fiscal year dollars” and inserting “based on fiscal year 2010 constant dollars”.

SEC. 322. INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.

(a) IN GENERAL.—The intelligence community business system transformation is a certification described in paragraph (2) with respect to such intelligence community business system transformation.

(b) Such certification is approved by the board established under subsection (f).

(2) The enterprise architecture describes the intelligence community business system transformation in a manner consistent with subsection (i).

The certification described in paragraph (1) shall—

(i) cooperate with all Federal accounting, financial management, and reporting requirements;

(ii) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable financial information for management purposes;

(iii) integrate budget, accounting, and program information and systems; and

(iv) develop and implement enterprise architecture and application transformation planning, design, acquisition, integration, operation, and maintenance of the business system transformation.

(c) RESPONSIBILITIES FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, including review, approval, and oversight of the planning, design, acquisition, integration, operation, and maintenance of the business system transformation.

(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Director of the Intelligence Community Business System Investment Review Board is responsible for the intelligence community business systems modernization; and

(2) The investment review process under paragraph (1) shall include the following:

(A) meet the requirements of section 1512 of title 40, United States Code; and

(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

(3) The investment review process under paragraph (1) shall include the following elements:

(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

(B) Periodic review, at least once every two years, of every intelligence community business system investment.

(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

(e) BUDGET INFORMATION.—For each fiscal year, the Director of National Intelligence shall include in the materials the Director submits to Congress in support of the budget for such fiscal year that information that best meets the needs of the intelligence community and the executive agency.

(1) An identification of each intelligence community business system for which funding is proposed in such budget.

(2) An identification of all funds, by appropriation account, proposed in such budget for each such system, including—

(A) funds for current services to operate and maintain such system;

(B) funds for associated business process improvement or reengineering efforts for each such system; and

(C) funds for associated business process improvement or reengineering efforts for each such system.

(3) The certification, if any, made under subsection (a)(2) with respect to each such system.

(F) carry out such other duties as the Director shall specify.

(R) RELATIONSHIP TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of this section referred to as the ‘Board’.

(2) The Board shall—

(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement efforts undertaken within the intelligence community;

(B) review and approve any major update of

(i) the enterprise architecture developed under subsection (b); and

(ii) any plans for an intelligence community business system modernization;

(C) manage cross-domain integration with a consistent with such enterprise architecture;

(D) coordinate initiatives for intelligence community business system transformation to ensure maximum benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

(F) carry out such other duties as the Director shall specify.

(R) RELATIONSHIP TO DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.—Nothing in this section shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10, United States Code, to the extent that such requirements are otherwise applicable.

(R) RELATIONSHIP TO CLINGER-COHEN ACT.—(1) Except as otherwise provided in chapter 113 of title 40, United States Code, for any intelligence community business system transformation shall be exercised jointly by—

(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

(2) The Director of National Intelligence and the head of the executive agency referred to in paragraph (1) shall enter into a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.
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“(j) REPORTS.—Not later than March 31 of each of the years 2011 through 2015, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of such intelligence community with the requirements of this section. Each such report shall—

(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

(A) specific milestones and actual performance against specified performance measures and metrics of such milestones and performance measures; and

(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection;

(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2); and

(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

(k) DEFINITIONS.—In this section:

(1) The term ‘enterprise architecture’ has the meaning given that term in section 5203 of title 51, United States Code.

(2) The terms ‘information system’ and ‘information technology’ have the meanings given those terms in section 11101 of title 40, United States Code.

(3) The term ‘intelligence community business system’ means an information system, including a national security system, that is operated, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial feeder system, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that is used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

(4) The term ‘intelligence community business system transformation’ means—

(A) the modernization or development of a new intelligence community business system; or

(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

(5) The term ‘national security system’ has the meaning given that term in section 3542 of title 41, United States Code.


(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 321 of this Act, is further amended by inserting after the item relating to section 506C, as added by section 321(a)(2), the following new item:

‘‘Sec. 506D. Intelligence community business system transformation.’’.

(b) IMPLEMENTATION.—

(1) CHARACTERISTICS.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall designate a program manager to serve on the board established under subsection (f) of such section 506D of the National Security Act of 1947 (as added by subsection (a)).

(2) ENTERPRISE ARCHITECTURE.

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop an enterprise architecture required by subsection (b) of such section 506D (as so added), including the initial Business Enterprise Architecture for business travel costs determined pursuant to section (h).

(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

(i) An acquisition strategy for new systems that are not intended to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial rescue needs.

(ii) An identification of the intelligence community business systems in operation or planned as of the date that is 60 days after the enactment of this Act that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of such date, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 31, 2011.

SEC. 323. REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 322 of this Act, is further amended by inserting after section 506D, as added by section 322(a)(1), the following new section:

‘‘REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

SEC. 506E. (a) DEFINITIONS.—In this section—

(1) The term ‘cost estimate’—

(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonable assumptions as of the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (b) and (i) of the congressional intelligence committees not later than March 31, 2011.

(D) Any significant changes in the total acquisition cost for a major system; or

(b) MAJOR SYSTEM COST REPORTS.—(1) The program manager for a major system shall, on a quarterly basis, submit to the Director a major system cost report as described in paragraph (2).

(2) A major system cost report shall include the following information (as of the last day of the quarter for which the report is made):

(A) The total acquisition cost for the major system.

(B) Any cost variance or schedule variance in a major contract for the major system since the contract was entered into.

(C) Any changes from a major system schedule milestones or performance that are known, expected, or anticipated by the program manager.

(D) Any significant changes in the total acquisition cost for development and procurement of any software component of the major system or, expected performance of such software component of the major system, or expected performance of such software component of the major system that are that are known, expected, or anticipated by the program manager.

(C) REPORTS FOR BREACH OF SIGNIFICANT OR CRITICAL COST GROWTH THRESHOLDS.—If the program manager for a major system for which a report has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold and if a report indicating an increase of such percentage or more has not previously been submitted to the Director, then the program manager shall immediately submit to the Director a major system cost report that provides the information, determined as of the date of the report, required under subsection (b),
or schedule milestones of the major system.

(2) If the Director determines that the current total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, the Director shall submit to Congress a Major System Congressional Report pursuant to subsection (e).

(e) MAJOR SYSTEM CONGRESSIONAL REPORT.—(1) Whenever the Director determines under subsection (d) that the total cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director receives the major system cost report for such major system.

(2) If the total acquisition cost of a major system (as determined by the Director under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Director shall take actions consistent with the requirements of section 506F.

(f) MAJOR SYSTEM CONGRESSIONAL REPORT EXAMPLE.—(1) If the Director determines that the major system cost report for such major system was first appropriated and in which the major system was first authorized and in which funds will be appropriated for the major system for the first time on or after the date of enactment of such Act, the Director shall submit to Congress a Major System Congressional Report containing the information described in subsection (f) of such Act, prepared for a major system for which funds were first appropriated and in which funds will be appropriated for the major system not later than 45 days after the date of the enactment of such Act.

(2) If the Director determines that the total acquisition cost of such major system increased by a percentage greater than the significant cost growth threshold, the Director shall submit to Congress a Major System Congressional Report containing the information described in subsection (f) of such Act, prepared for a major system for which funds were first appropriated and in which funds will be appropriated for the major system not later than 45 days after the date of the enactment of such Act.

(3) If the Director determines that the total acquisition cost of such major system increased by a percentage greater than the critical cost growth threshold for the program or subprogram, the Director shall submit to Congress a Major System Congressional Report containing the information described in subsection (f) of such Act, prepared for a major system for which funds were first appropriated and in which funds will be appropriated for the major system not later than 45 days after the date of the enactment of such Act.

(h) TREATMENT OF COST INCREASES PRIOR TO ACQUISITION ACT.—If the Director determines that the total acquisition cost of such major system increased by a percentage greater than the critical cost growth threshold for the major system, the Director shall—

(1) determine the root cause or causes of the critical cost growth, in accordance with
applicable statutory requirements, policies, procedures, and guidance; and

"(2) carry out an assessment of—

(a) the projected cost of completing the major system if current requirements are not modified;

(b) the projected cost of completing the major system based on reasonable modification of (a); and

(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

(D) the need to reduce funding for other systems due to the growth in cost of the major system.

(b) PRESUMPTION OF TERMINATION.—(1) After the end date required by subsection (a) with respect to a major system, the Director shall terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the relevant major system cost report under subsection (a)(2).

"(2) A certification described by this paragraph with respect to a major system is a written certification that—

(A) the continuing need of the major system is essential to the national security;

(B) there are no alternatives to the major system that will provide acceptable capability to meet the intelligence requirement at less cost;

(C) the new estimates of the total acquisition cost have been determined by the Director to be reasonable;

(D) the major system is a higher priority than other systems whose funding must be reduced to accommodate the growth in cost of the major system; and

(E) the management structure for the major system is adequate to manage and control the total acquisition cost.

(3) A Major System Congressional Report accompanying a written certification under paragraph (2) shall include, in addition to the requirements of section 506E(e), the root cause assessment carried out pursuant to subsection (a), the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), and a table of all funding changes made as a result of the growth in the cost of the major system, including reductions made in funding for other systems to accommodate cost growth, together with supporting documentation.

(c) ACTIONS IF MAJOR SYSTEM NOT TERMINATED.—If the Director elects not to terminate a major system pursuant to subsection (b), the Director shall—

"(1) restructure the major system in a manner that addresses the root cause or causes of critical cost growth, as identified pursuant to subsection (a), and ensures that the system has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);

"(2) rescind the most recent Milestone Approval for the major system;

"(3) require a new Milestone Approval for the major system before taking any action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the system, except to the extent determined necessary by the Milestone Decision Authority, on a nondelegable basis, to ensure that the system is structured as intended by the Director without unnecessarily wast- ing resources;

"(4) establish a revised current Baseline Estimate for the major system based upon an updated cost estimate; and

"(5) conduct regular reviews of the major system.

(d) ACTIONS IF MAJOR SYSTEM TERMINATED.—If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth—

"(1) an explanation of the reasons for terminating the major system;

"(2) the alternatives considered to address any problems in the major system; and

"(3) the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.

(e) FORM OF REPORT.—Any report or certification required to be submitted under this section may be submitted in a classified form.

"(f) WAIVER.—(1) The Director may waive the requirements of subsections (d)(2), (e), and (g) of section 506E and subsections (a)(2), (b), (c), and (d) of this section with respect to a major system if the Director determines that at least 90 percent of the amount of the current Baseline Estimate for the major system has been expended.

"(2)(A) If the Director grants a waiver under paragraph (1) to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes—

(i) the information described in section 506E(f); and

"(ii) if the current total acquisition cost of the major system has increased by a percentage equal to or greater than the critical cost growth threshold—

(i) a determination of the root cause or causes of the critical cost growth, as described in subparagraph (A); and

(ii) a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(2).

(B) The Director shall submit the written notice required by subparagraph (A) not later than 90 days after the date that the Director receives a major system cost report under subsection (b) or (c) of section 506E that indicates that the total acquisition cost for the major system has increased by a percentage greater than the significant cost growth threshold or critical cost growth threshold.

"(g) DEFINITIONS.—In this section, the terms 'cost growth threshold', 'current Baseline Estimate', 'major system', and 'total acquisition cost' have the meaning given those terms in section 506E(a).

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of this Act, as amended by section 323 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 323(a)(3), the following new item:

Sec. 506F. Critical cost growth in major systems.

SEC. 325. FUTURE BUDGET PROJECTIONS.

(a) IN GENERAL.—(Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 324 of this Act, is further amended by inserting after '610F, as added by section 324(a), the following new section:

"FUTURE BUDGET PROJECTIONS

"Sec. 506G. (a) FUTURE YEAR INTELLIGENCE PLAN.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees an intelligence Program before the time that the President submits to Congress the budget for the fiscal year for which the Plan is submitted and not less than the 4 subsequent fiscal years.

(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the 1st fiscal year of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a).

(2) A Long-term Budget Projection submitted under paragraph (1) shall include—

(A) projections for the appropriate element of the intelligence community for—

(i) pay and benefits of officers and employees of such element;

(ii) other operating and support costs and major acquisitions of such element;

(iii) research and technology required by such element;

(iv) current and planned major system acquisitions for such element;

(v) any future major system acquisitions for such element; and

(vi) any additional funding projections that the Director of National Intelligence considers appropriate;

(B) a budget projection based on effective cost and schedule execution of current or planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;

(C) all fundamental assumptions and projections that the Director of National Intelligence considers appropriate; and

(D) a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget for that element of the intelligence community.

(c) SUBMISSION TO CONGRESS.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan and Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year. Each section 1105 of title 31, United States Code.

(d) MAJOR SYSTEM AFFORDABILITY REPORT.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded under the National Intelligence Program before the time that the President submits to Congress the budget for the first fiscal year in which appropriated
funds are anticipated to be obligated for the development or procurement of such major system.

"(2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the U.S. Future Year Intelligence Plan and Long-term Budget Projection submitted under section 506G for an element of the intelligence community.

"(3) The Director of National Intelligence shall update the report whenever an indepen-
dent cost estimate must be updated pursuant to section 506A(a)(4).

"(4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

"(e) DEFINITIONS.—In this section—

"(1) BUDGET YEAR.—The term ‘budget year’ means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31, United States Code.

"(2) INDEPENDENT COST ESTIMATE; MAJOR SYSTEM.—The terms ‘independent cost estimate’ and ‘major system’ have the meaning given in section 506A(e).

"(b) APPLICABILITY DATE.—The first Future Year Intelligence Plan and Long-term Budget Projection required to be submitted under subsection (a) of section 506G of the National Security Act of 1947, as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(c) CONFORMING AMENDMENTS.—

"(1) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by section 324 of this Act, is further amended by inserting after the items relating to section 506F, as added by section 324(b), the following new item:

"Sec. 506G. Future budget projections…

"(2) REPETITION OF DUPLICATIVE PROVISION.—Section 8104 of the Department of Defense Appropriations Act, 2010 (50 U.S.C. 413a–3; Public Law 111–118; 123 Stat. 3451) is re-

pealed.

SEC. 329. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.

Subsection (n) of section 102A of the Na-
tional Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new paragraph:

"(4)(A) In addition to the authority re-
ferred to in paragraph (1), the Director of Na-
tional Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Inte-
ligence Agency Act of 1949 (50 U.S.C. 463; and 403(a)) for an acquisition by such element that is more than 50 percent funded under the Intelligence Program.

"(B) The head of an element of the intel-
ligence community may not exercise an au-
thority referred to in subparagraph (A) until—

"(i) the head of such element (without de-
legation) submits to the Director of National Intelligence a written request that in-
cludes—

"(I) a description of such authority re-
quested to be exercised;

"(II) an explanation of the need for such authority; and

"(iii) a certification that the mission of such element will be served.

"(aa) impaired if such authority is not ex-
cercised; or

"(bb) significantly and measurably en-
hanced if such authority is exercised; and

"(ii) the Director of National Intelligence issues a written authorization that in-
cludes—

"(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

"(II) a justification to support the exercise of such authority.

"(C) A request and authorization to exer-
cise an authority referred to in subparagraph (A) may not be made with respect to an indi-
vidual acquisition or with respect to a spe-
cific class of acquisitions described in the re-
quest and authorization referred to in sub-
paragraph (B).

"(D) (i) A request from a head of an element of the intelligence community located with-
in the Department of Defense, a department referred to in clause (ii) of subparagraph (A) shall be submitted to the Director of National Intelligence in accord-
ance with any only delegate the authority of such head of department.

"(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the De-
partment of the Treasury.

"(E)(i) The head of an element of the intel-
ligence community may not be authorized to utilize an authority referred to in subpara-
graph (A) for a period of more than 3 years, except that the Di-
rector of National Intelligence (without dele-
gation) may authorize the use of such an au-
thority for not more than 6 years.

"(ii) Each authorization to utilize an au-
thority referred to in subparagraph (A) may be extended in accordance with the require-
ments of subparagraph (B) for successive pe-
riods of not more than 3 years, except that the Director of National Intelligence (with-
out delegation) may authorize an extension period of not more than 6 years.

"(F) Subject to clauses (i) and (ii) of sub-
paragraph (E), the Director of National In-
elligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence.

"(G) The Director of National Intelligence shall sub-
mit—

"(i) to the congressional intelligence com-
mitees a written notification to authorize to exercise an authority referred to in subpara-
graph (A) or an extension of such authoriza-
tion that includes the written authorization referred to in clause (ii) of subparagraph (E); and

"(ii) to the Director of the Office of Man-
agement and Budget a notification of an au-
thorization to exercise an authority referred to in subparagraph (A) or an extension or class of acquisitions that will exceed $50,000,000 annually.

"(H) Requested and authorized exercises to exer-
cise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 5 years following the date of such request or authorization.

"(I) Nothing in this paragraph may be con-
troverted to alter or otherwise limit the author-
ity of the Central Intelligence Agency to inde-
pendently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 463; and 403(a)).

Subtitle D—Congressional Oversight, Plans, and Reports

SEC. 321. NOTIFICATION PROCEDURES.

(a) PROCEDURES.—Section 501(c) of the Na-
tional Security Act of 1947, as amended by stricken ‘such procedures’ and inserting ‘such written procedures’.

(b) INTELLIGENCE ACTIVITIES.—Section 502(a)(2) of such Act (50 U.S.C. 413a(2)) is amended by inserting ‘including the legal basis under which the intelligence activity is being or was conducted’ after ‘concerning intelligence activities’.

(c) COVERT ACTIONS.—Section 503 of such Act (50 U.S.C. 413b) is further amended by inserting ‘in writing’ after ‘being reported’; and

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

"(B) Not later than 180 days after a state-
ment of reasons is submitted in accordance with subparagraph (a), the President shall ensure that—

"(i) all members of the congressional intel-
ligence committees are provided access to the finding or notification to meet extraor-
dinary circumstances affecting vital inter-
ests of the United States is submitted to the Members of Congress specified in paragraph (2) of subsection (d).

"(3) in subsection (d)—

"(A) by striking ‘‘The President’’ and in-
serting ‘‘(d)(1) The President’’;

"(B) in paragraph (1), as designated by sub-
paragraph (A), by inserting ‘‘in writing’’ after ‘‘notified’’; and

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

"(2) In determining whether an activity constitutes a significant undertaking for purposes of paragraph (1), the President shall consider whether the activity—

"(A) involves significant risk of loss of life; or

"(B) requires an expansion of existing au-
thorities, including authorities relating to research, development, or operations;

"(C) results in the disclosure of sensitive infor-
mation; funds or other resources;

"(D) requires notification under section 504;

"(E) gives rise to a significant risk of dis-
closing intelligence sources or methods; or

"(F) presents a reasonably foreseeable risk of serious damage to the diplomatic rela-
tions of the United States if such activity were disclosed without authorization.”; and

"(4) by adding at the end the following new sub-
section:

"(g) In any case where access to a find-
ing reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congress-
sional intelligence committee in accordance with subsection (c)(2), the President shall noti-
fy all members of such committee that such finding or such notification has been provided only to the members specified in subsection (c)(2).

"(h) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall provide to all members of such committee a general
description regarding the finding or notification, as applicable, consistent with the reasons for not yet fully informing all members of such committee.

(3) the policies and procedures relating to any detention by the Central Intelligence Agency of such individuals in accordance with Executive Order 12906;

(4) the training and research to support the policies and procedures referred to in paragraphs (1) and (2); and

(5) any action that has been taken to implement section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1).

(b) OTHER SUBMISSION OF REPORT.—

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required in subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated material submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons targets, including—

(A) intelligence collection gaps or inefficiencies;

(B) inadequate information sharing practices; or

(C) inadequate cooperation among departments or agencies of the United States;

(4) a strategic plan prepared by the Director of National Intelligence, in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons.

(5) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

(6) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date on which the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).

SEC. 333. CYBERSECURITY OVERSIGHT.

(a) NOTIFICATION OF CYBERSECURITY PROGRAMS.—

(1) REQUIREMENT FOR NOTIFICATION.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a notification for each cybersecurity program in operation or in development that includes the documentation referred to in subparagraphs (A) through (F) of paragraph (2).

(B) NEW PROGRAMS.—Not later than 30 days after the date of the enactment of a new cybersecurity program, the President shall submit to Congress a notification of such commencement that includes the documentation referred to in subparagraphs (A) through (F) of paragraph (2).

(2) DOCUMENTATION.—A notification required by paragraph (1) for a cybersecurity program shall include—

(A) the legal basis for the cybersecurity program;

(B) the certification, if any, made pursuant to section 2311(a)(3)(B) of title 18, United States Code, or other statutory certification of legality for the cybersecurity program;

(C) the concept for the operation of the cybersecurity program that is not later than 30 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a comprehensive report containing—

(1) the policies and procedures of the United States Government governing participation by an element of the intelligence community in the interrogation of individuals detained by the United States who are suspected of terrorism with the objective, in whole or in part, of acquiring national intelligence, including such policies and procedures of each appropriate element of the intelligence community referred to in an interagency body established to carry out interrogations;

(2) the policies and procedures relating to any detention by the Central Intelligence Agency of such individuals in accordance with Executive Order 12906;

(3) the legal basis for the policies and procedures referred to in paragraphs (1) and (2); and

(4) the training and research to support the policies and procedures referred to in paragraphs (1) and (2); and

(5) any action that has been taken to implement section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1).

(b) OTHER SUBMISSION OF REPORT.—

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required in subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated material submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons.

(3) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

(4) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date on which the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).

SEC. 333. REPORT ON DETENTION AND INTERROGATION ACTIVITIES.

(a) REQUIRING A REPORT.—Not later than December 1, 2010, the Director of National Intelligence, in coordination with the Attorney General and the Secretary of Defense, shall submit to the congressional intelligence committees a comprehensive report containing—

(1) the policies and procedures of the United States Government governing participation by an element of the intelligence community in the interrogation of individuals detained by the United States who are suspected of terrorism with the objective, in whole or in part, of acquiring national intelligence, including such policies and procedures of each appropriate element of the intelligence community referred to in an interagency body established to carry out interrogations;
or agency, in conjunction with the appropriate inspector general; and
(F) recommendations, if any, for legislation to improve the capabilities of the United States to protect the cybersecurity of the United States.

(b) PROGRAM REPORTS.—
(1) REQUIREMENT FOR REPORTS.—The head of a department or agency of the United States shall be responsible for a cybersecurity program for which a notification was submitted under subsection (a), in consultation with the inspector general for that department or agency, shall submit to Congress and the President a report on such cybersecurity program that includes—
(A) the results of any audit or review of the cybersecurity program carried out under the plan referred to in subsection (a)(2)(E), if any; and
(B) an assessment of whether the implementation of the cybersecurity program—
(i) is in compliance with—
(I) the legal basis referred to in subsection (a)(2)(A); and
(ii) an assessment referred to in subsection (a)(2)(D), if any;
(ii) is adequately described by the concept of operation referred to in subsection (a)(2)(E); and
(iii) includes an adequate independent audit or review system and whether improvements to such independent audit or review system are needed.
(2) SCHEDULE FOR SUBMISSION OF REPORTS.—
(A) EXISTING PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification is required under subsection (a)(1)(A) shall submit a report required under paragraph (1).
(B) NEW PROGRAMS.—Not later than 120 days after the date on which a certification is submitted under subsection (a)(1)(B), and annually thereafter, the head of a department or agency of the United States with responsibility for the cybersecurity program for which such certification is submitted shall submit a report required under paragraph (1).
(3) COORDINATION AND COORDINATION.—
(A) COOPERATION.—The head of each department or agency of the United States required to submit a report under paragraph (1) for a cybersecurity program, and the inspector general of each such department or agency, shall, to the extent practicable, work in conjunction with any other such head or inspector general required to submit such a report for such cybersecurity program.
(B) COORDINATION.—The heads of all of the departments and agencies of the United States required to submit a report under paragraph (1) for a particular cybersecurity program shall designate one such head to coordinate the conduct of the reports on such program.
(c) INFORMATION SHARING REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community shall jointly submit to Congress and the President a report on the status of the sharing of cyber-threat information, including—
(1) a description of how cyber-threat intelligence information, including classified information, is shared among the agencies and departments of the United States and with persons responsible for critical infrastructure;
(2) a description of the mechanisms by which classified cyber-threat information is distributed;
(3) an assessment of the effectiveness of cyber-threat information sharing and distribution; and
(4) any other matters identified by either Inspector General that would help to fully inform Congress regarding the effectiveness and legality of cybersecurity programs.
(d) PERSONNEL DETAILS.—
(1) AUTHORITY TO DETAIL.—Notwithstanding any other provision of law, the head of an element of the intelligence community that is designated under this section to carry out the cybersecurity mission shall detail an officer or employee of such element to the National Cyber Investigative Joint Task Force or to the Department of Homeland Security to assist the Task Force or the Department with cybersecurity, as jointly agreed by the head of such element and the Task Force or the Department.
(2) BASIS FOR DETAIL.—A personnel detail made under paragraph (1) may be—
(A) for a period of not more than three years; and
(B) on a reimbursable or nonreimbursable basis.
(e) ADDITIONAL PLAN.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a plan for recruiting, retaining, and training a highly-qualified cybersecurity intelligence community workforce to secure the networks of the intelligence community. Such plan shall include—
(I) an assessment of the capabilities of the current workforce;
(II) an examination of issues of recruiting, retaining, and the professional development of such workforce, including the possibility of providing retention bonuses or other forms of compensation;
(III) an assessment of the benefits of outreach and training with both private industry and academic institutions with respect to such workforce;
(IV) an assessment of the impact of the establishment of the Department of Defense Cyber Command on such workforce;
(V) an examination of best practices for making the cybersecurity workforce aware of cybersecurity best practices and principles; and
(VI) strategies for addressing such other matters as the Director of National Intelligence considers necessary to the cybersecurity of the intelligence community.
(f) REPORT ON GUIDELINES AND LEGISLATION TO IMPROVE CYBERSECURITY OF THE UNITED STATES.—
(1) INITIAL.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the Attorney General, the Director of the National Security Agency, the White House Cybersecurity Coordinator, and any other officials the Director of National Intelligence considers appropriate, shall submit to Congress an update of the report required under paragraph (1).
(g) SUNSET.—The requirements and authorities of subsections (a) through (e) shall terminate on December 31, 2013.
(h) DEFINITIONS.—In this section:
(1) CYBERSECURITY PROGRAM.—The term ‘‘cybersecurity program’’ means a class or collection of similar cybersecurity operations of a department or agency of the United States that involves personally identifiable data that is—
(A) screened by a cybersecurity system outside of the department or agency of the United States that was the intended recipient of the personally identifiable data;
(B) transferred, for the purpose of cybersecurity, outside the department or agency of the United States that was the intended recipient of the personally identifiable data; or
(C) transferred, for the purpose of cybersecurity, outside the department or agency of the United States that was the intended recipient of the personally identifiable data;
(2) NATIONALLY CYBER INVESTIGATIVE JOINT TASK FORCE.—The term ‘‘National Cyber Investigative Joint Task Force’’ means the multiagency cyber investigation coordination organization overseen by the Director of the Federal Bureau of Investigation known as the National Cyber Investigative Joint Task Force that coordinates, integrates, and provides pertinent information related to cybersecurity investigations.
(3) CRITICAL INFRASTRUCTURE.—The term ‘‘critical infrastructure’’ has the meaning given that term in section 1016 of the USA Patriot Act (42 U S C 1912).
SEC. 337. REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.
(a) REPORT.—Not later than one year after the date of the enactment of this Act, and biennially thereafter for four years, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report on the proficiency in foreign languages, as appropriate, in the intelligence community, including—
(1) the number of positions authorized for such element that require foreign language proficiency and a description of the level of proficiency required;
(2) an estimate of the number of such positions that such element will require during the five-year period beginning on the date of the submission of the report;
(3) the number of positions authorized for such element that require foreign language proficiency that are filled by—
(A) military personnel; and
(B) civilian personnel;
(4) the number of applicants for positions in such element in the preceding fiscal year that indicated foreign language proficiency,
including the foreign language indicated and the proficiency level;
(5) the number of persons hired by such element with foreign language proficiency, including the translators and interpreters and a description of the proficiency level of each such person;
(6) the number of personnel of such element currently attending foreign language training, including the provider of such training;
(7) a description of the efforts of such element to recruit, hire, train, and retain personnel that are proficient in a foreign language;
(8) an assessment of methods and models for enhancing and intensifying foreign language training utilized by such element;
(9) for each foreign language and, as appropriate, dialect of a foreign language—
(A) the number of personnel of such element that require proficiency in the foreign language or dialect;
(B) the number of personnel of such element that are serving in a position that requires proficiency in the foreign language or dialect to perform the primary duty of the position;
(C) the number of personnel of such element that are serving in a position that does not require proficiency in the foreign language or dialect to perform the primary duty of the position;
(D) the number of personnel of such element rated at each level of proficiency of the Interagency Language Roundtable;
(E) the number of personnel at each level of proficiency of the Interagency Language Roundtable meets the requirements of such element;
(F) the number of personnel serving or hired to serve as linguists for such element that are not qualified as linguists under the standards of the Interagency Language Roundtable;
(G) the number of personnel hired to serve as linguists for such element during the preceding calendar year;
(H) the number of personnel serving as linguists that discontinued serving such element during the preceding calendar year;
(I) the percentage of work requiring linguistic skills that is fulfilled by a foreign country, international organization, or other foreign entity; and
(J) the percentage of work requiring linguistic skills that is fulfilled by contractors;
(10) an assessment of the foreign language capacity and capabilities of the intelligence community as a whole;
(11) an identification of any critical gaps in foreign language proficiency with respect to such element and recommendations for eliminating such gaps;
(12) recommendations, if any, for eliminating required reports relating to foreign-language proficiency that the Director of National Intelligence considers outdated or no longer necessary.
(13) an assessment of the feasibility of employing foreign nationals lawfully present in the United States, including the Armed Forces or another department or agency of the United States Government in Iraq or Afghanistan to meet the critical language needs of such element.
(b) FORM.—The report required under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SEC. 339. REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 2011, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report describing the use of personal services contracts, including the foreign language and a description of the efforts of such element to improve retention of diverse Federal employees at the junior, midgrade, senior, and policy levels;
(b) FORM.—The report required by subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SEC. 340. STUDY ON ELECTRONIC WASTE DESTRUCTION PRACTICES OF THE INTELLIGENCE COMMUNITY.

(a) STUDY.—The Intelligence Community shall conduct a study on the electronic waste destruction practices of the intelligence community. Such study shall assess—
(1) the security of the electronic waste disposal practices of the intelligence community, including the potential for counterintelligence exploitation of electronic waste, discarded, or recycled materials;
(2) the environmental impact of such disposal practices, including steps to prevent the forensic exploitation of electronic waste;
(3) methods to improve the security and environmental impact of such disposal practices, including steps to prevent the forensic exploitation of electronic waste;
(4) the number of personal services contracts awarded for intelligence exploitation of destroyed, discarded, or recycled materials; and
(5) the security of the electronic waste disposal practices of the intelligence community, including the potential for counterintelligence exploitation of electronic waste.
(b) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General of the Intelligence Community shall submit to the congressional intelligence committees a report containing the results of the study conducted under subsection (a).

SEC. 341. REVIEW OF RECORDS RELATING TO POTENTIAL HEALTH RISKS AMONG DESERT STORM VETERANS.

(a) REVIEW.—The Director of the Central Intelligence Agency shall conduct a classification review of the records of the Agency that are relevant to the known or potential health effects associated with service in Operation Desert Storm as described in the November 2008, report by the Department of Veterans Affairs Research Advisory Committee on Gulf War Veterans’ Illnesses.
(b) REPORT.—Not later than one year after the date of enactment of this Act, the Director of the Central Intelligence Agency shall submit to Congress the results of the classification review conducted under subsection (a), including the total number of records of the Agency that are relevant to the known or potential health effects associated with service in Operation Desert Storm.
(c) FORM.—The report required under subsection (b) shall be submitted in an unclassified form, but may include a classified annex.

SEC. 342. REVIEW OF FEDERAL BUREAU OF INVESTIGATION EXERCISE OF ENFORCEMENT JURISDICTION IN FOREIGN NATIONS.

Not later than 120 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Secretary of State, shall submit to Congress a report of constraints under international law and the laws of foreign nations with respect to the exercise of enforcement jurisdiction with respect to criminal investigations of terrorism offenses under the positions that provide substantially similar functions during the preceding fiscal year;
(I) an analysis of the oversight and accountability mechanisms applicable to personal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2009 and 2010;
(J) an analysis of procedures in use in the intelligence community as of February 1, 2011, for conducting oversight of contractors to ensure identification and prosecution of criminal violations, fraud, or other abuses committed by contractors or contract personnel; and
(K) an identification of best practices for oversight and accountability mechanisms applicable to personal services contracts.
(2) ACTIVITIES.—Activities described in this paragraph are the following:
(A) Linguist training;
(B) Intelligence analysis;
(C) Covert actions, including rendition, detention, and interrogation activities.

SEC. 343. STUDY ON ELECTRONIC WASTE DESTRUCTION PRACTICES OF THE INTELLIGENCE COMMUNITY.

(a) STUDY.—The Director of the Central Intelligence Agency shall conduct a study on the electronic waste destruction practices of the intelligence community. Such study shall assess—
(1) an assessment of the foreign language proficiency of the intelligence community workforce, plans, and the number of personnel working under contracts during the preceding fiscal year under which the contractor is performing substantially similar functions to a United States Government employee;
(2) an assessment of the oversight and accountability mechanisms applicable to personal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2011 and 2012;
laws of the United States conducted by agents of the Federal Bureau of Investigation in foreign nations and using funds made available for the National Intelligence Program, in an unclassified version identified in section 432 of the Restatement (Third) of the Foreign Relations Law of the United States.

SEC. 343. PUBLIC RELEASE OF INFORMATION ON PROCEDURES USED IN NARCOTICS AIRBRIDGE DENIAL PROGRAM IN PERU.

Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall make publicly available an unclassified version of the report of the Inspector General of the Central Intelligence Agency entitled “Procedures Used in Narcotics Airbridge Denial Program in Peru, 1996-2001”, dated August 25, 2006.

SEC. 344. REPORT ON THREAT FROM DIRTY AIR.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the National Security Council, shall submit to Congress a report summarizing intelligence related to the threat to the United States from weapons that use radiological materials or other highly dispersible substances such as cesium-137.

SEC. 345. REPORT ON CREATION OF SPACE INTELLIGENCE OFFICE.

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the necessity and advisability of creating a national space intelligence office to manage space-related intelligence assets and access to such assets.

SEC. 346. REPORT ON ATTEMPT TO DETONATE EXPLOSIVE DEVICE ON NORTHWEST AIRLINES FLIGHT 253.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the attempt to detonate an explosive device aboard Northwest Airlines flight number 253 on December 25, 2009. Such report shall describe the failures, if any, to share or analyze intelligence or other information and the measures that the intelligence community has taken or will take to prevent such failures, including—

(1) the roles and responsibilities of the counterterrorism analytic components of the intelligence community in synchronizing, correlating, and analyzing all sources of intelligence related to terrorism;

(2) an assessment of the technological capabilities of the United States Government to assess terrorist threats, including—

(A) a list of all databases used by counterterrorism analysts;

(B) a description of the steps taken by the intelligence community to integrate all relevant terrorist databases and allow for cross-database searches;

(C) a description of the steps taken by the intelligence community to ensure that intelligence gathered by different agencies or collected under different authorities be shared;

(D) a description of the improvements to information technology needed to enable the United States Government to better share intelligence;

(3) any recommendations that the Director considers appropriate for legislation to improve the sharing of intelligence or information relating to terrorists;

(4) a description of the steps taken by the intelligence community to train analysts on watching processes and procedures;

(5) a description of the manner in which watching intelligence is entered, reviewed, approved, and acted upon by the relevant elements of the United States Government;

(6) a description of the steps the intelligence community is taking to enhance the rigor and raise the standard of trade craft of intelligence analysis related to uncovering and preventing terrorist activity; and

(7) a description of the processes and procedures by which the intelligence community prioritizes terrorism threat leads and the standards of intelligence that will allow the intelligence community to determine if follow-up action is appropriate;

(8) a description of the steps taken to enhance record information on possible terrorists in the Terrorist Identities Datamart Environment;

(9) an assessment of how to meet the challenge associated with exploiting the ever-increasing volume of information available to the intelligence community; and

(10) a description of the steps the intelligence community has taken or will take to respond to any findings and recommendations of the congressional intelligence committees, with respect to any such failures, that has been submitted to the Director of National Intelligence.

SEC. 347. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) ANNUAL REPORT ON INTELLIGENCE RELATING TO TERRORISTS; —Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

(b) ANNUAL REPORT ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.—Section 112 of the National Security Act of 1947 (50 U.S.C. 405g) is amended—

(1) in the heading, by striking “ANNUAL” and inserting “SEMI-ANNUAL”;

(2) in subsection (a)—

(A) in paragraph (1), by inserting “the Committee on Appropriations,” after “the Committee on Appropriations,”; and

(B) in paragraph (2), by inserting “the Committee on Appropriations,” after “the Committee on Appropriations,”.

(3) by adding a new paragraph:

(c) ANNUAL REPORT ON INTELLIGENCE SHARING WITH PERU.—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

(1) in the heading, by striking “ANNUAL REPORT” and inserting “SEMI-ANNUAL”;

(2) in subsection (a)—

(A) in paragraph (1), by inserting “the Committee on Appropriations,” after “the Committee on Appropriations,”; and

(B) in paragraph (2), by inserting “the Committee on Appropriations,” after “the Committee on Appropriations,”.

(3) by redesignating paragraph (3) as paragraph (4) and redesignating paragraph (4) as paragraph (5) and (6) respectively;

(4) by redesigning paragraphs (5) and (6) as paragraphs (7) and (8); and

(5) in subsection (d)—

(A) in paragraph (1), by inserting “the Committee on Armed Services,” after “the Committee on Appropriations,” and

(B) in paragraph (2), by inserting “the Committee on Appropriations,” after “the Committee on Appropriations,”.

(c) ANNUAL CERTIFICATION ON COUNTER-INTELLIGENCE INITIATIVES.—Section 102(b)(2) of the National Security Act of 1947 (50 U.S.C. 422a(b)(2)) is amended—

(1) by striking “(1)” and “(2)” and inserting “(1)”; and

(2) by striking paragraph (2).

(d) REPORT AND CERTIFICATION UNDER TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.—Section 348 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n-2) is amended—

(1) by striking subsection (d); and

(2) by redesigning subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 348. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.—Subsection (b) of section 899 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. App. 2170b) is amended—

(1) in the heading, by striking “ANNUAL UPDATE” and inserting “BRIEFING REPORT”;

(2) by striking paragraphs (1) and (2) and inserting the following:

“(1) REQUIREMENT TO SUBMIT.—Not later than February 1, 2011, and once every two years thereafter, the President shall submit to the congressional intelligence committees and congressional leadership a report updating the information referred to in subsection (a)(1)(D); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) TABLE OF CONTENTS AMENDMENTS.—(1) NATIONAL SECURITY ACT OF 1947.—The table of contents in the first section of the National Security Act of 1947, as amended by section 332 of this Act, is further amended—

(A) by striking the item relating to section 109;

(B) by striking the item relating to section 114A; and

(C) by striking the item relating to section 118A and inserting the following new item:

“Sec. 118. Annual report on financial intelligence on terrorist assets.”.

(2) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—The table of contents in the first section of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2383) is amended by striking the item relating to section 629.

(c) INFORMATION SECURITY BY THE COMP TROLLER GENERAL OF THE UNITED STATES—(a) DNI DIRECTIVE GOVERNING ACCESS.—(1) REQUIREMENT FOR DIRECTIVE.—The Director of National Intelligence, in consultation with the Comptroller General of the United States, shall issue a written directive to the Director of National Intelligence governing the access of the Comptroller General of the United States, to information in the possession of an element of the intelligence community.

(2) AMENDMENT TO DIRECTIVE.—The Director of National Intelligence, in consultation with the Comptroller General, may issue an amendment to the directive issued under paragraph (1) at any time the Director determines such an amendment to be necessary.

(3) RELATIONSHIP TO OTHER LAWS.—The directive issued under paragraph (1) and any amendment to such directive issued under paragraph (2) shall be consistent with the provisions of—

(A) chapter 7 of title 31, United States Code; and

(B) the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(b) CONFIDENTIALITY OF INFORMATION.—(1) REQUIREMENT FOR CONFIDENTIALITY.—The Comptroller General of the United States shall ensure that the level of confidentiality of information made available to the Comptroller General pursuant to the directive issued under subsection (a)(1) or an amendment to such directive issued under subsection (a)(2) is not less than the level of confidentiality of such information required of the head of the element of the intelligence community from which such information was obtained.

(2) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—An officer or employee of the Comptroller Accountability Office shall be subject to the same statutory penalties for unauthorized disclosures of such information as an officer or employee of the element of the intelligence community from which such information was obtained.

(c) SUBMISSION TO CONGRESS.—(1) SUBMISSION OF DIRECTIVE.—The directive issued under subsection (a)(1) shall be
submitted to Congress by the Director of National Intelligence, together with any comments of the Comptroller General.

SEC. 349. CONFORMING AMENDMENTS FOR REPORT SUBMISSION DATES.

Section 537 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A), (B), and (G);

(ii) by redesignating subparagraphs (C), (D), (E), (F), (H), (I), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

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

"(II) any other report on intelligence and information identified as requiring protection under section 3506 of title 50, United States Code, and any other report on intelligence and information identified as requiring protection under section 3510 of title 50, United States Code, shall be submitted to the President at the time and manner prescribed under section 506G of title 50, United States Code.

(2) submission dates.—The President shall submit the reports described in paragraphs (1) and (2) to Congress by the Director of National Intelligence, together with any comments of the Comptroller General.

SEC. 350. DEFINITION.—As used in this section, the term 'National Intelligence Program' has the meaning given that term in section 401a(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).''.

SEC. 352. MODIFICATION OF INTELLIGENCE FUNDING INFORMATIONS.—

(a) INCREASE IN PENALTIES FOR DISCLOSURE OF AGENT INFORMATION.—Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 423(a)(3)) is amended by striking "five years" and inserting "ten years".

(b) MODIFICATION OF ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 606(a) of the National Security Act of 1947 (50 U.S.C. 423(a)(6)) is amended by striking "five years and inserting "ten years".

SEC. 361. EXTENSION OF AUTHORITY TO DELETE NATIONAL SECURITY INFORMATION IDENTIFYING AGENT.—

Subtitle E—Other Matters

Paragraph (4) of section 7402(1) of title 5, United States Code, is amended to read as follows:

"(4) A statement, in unclassified form, that the disclosure required in subparagraph (a) or (b) for that fiscal year would damage national security; and

"(B) a statement detailing the reasons for the waiver or postponement, which may be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

"(I) that the annual report on outside employment of elements of the intelligence community required by section 102A(u)(2),

"(II) any information not provided to the Secretary of State pursuant to the authority in subparagraph (a) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

"(C) in this paragraph, the term 'intelligence community' has the meaning given that term in section 401a(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. 362. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.—Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 415b(a)(3)) is amended to read as follows:

"(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and''.

SEC. 363. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.—

(a) INCREASE IN PENALTIES FOR DISCLOSURE OF UNDERCOVER INTELLIGENCE OFFICERS AND AGENTS.—

(1) Disclosure of agent after access to information identifying agent.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking "ten years" and inserting "15 years".

(2) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking "five years" and inserting "10 years".

(b) MODIFICATION OF ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 606(a) of the National Security Act of 1947 (50 U.S.C. 423(a)(6)) is amended by striking "five years and inserting "ten years".

(c) MODIFICATION OF ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 606(a) of the National Security Act of 1947 (50 U.S.C. 423(a)(6)) is amended by striking "five years and inserting "ten years".

SEC. 363. NATIONAL INTELLIGENCE PROGRAM BUDGET.

Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended to read as follows:

"SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

"(a) BUDGET REQUEST.—At the time that the President transmits the budget for a fiscal year pursuant to section 1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for that fiscal year.

"(b) AMOUNTS APPROPRIATED EACH FISCAL YEAR.—Not later than 30 days after the end of each fiscal year, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

"(c) WAIVER.—

"(1) IN GENERAL.—The President may waive or postpone the disclosure required by subsection (a) or (b) for a fiscal year by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

"(A) a statement, in unclassified form, that the disclosure required in subparagraph (a) or (b) for that fiscal year would damage national security; and

"(B) a statement detailing the reasons for the waiver or postponement, which may be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

"(I) that the annual report on outside employment of elements of the intelligence community required by section 102A(u)(2),

"(II) any information not provided to the Secretary of State pursuant to the authority in subparagraph (a) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

"(C) in this paragraph, the term 'intelligence community' has the meaning given that term in section 401a(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. 364. NATIONAL INTELLIGENCE PROGRAM BUDGET.

Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended to read as follows:

"SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

"(a) BUDGET REQUEST.—At the time that the President transmits the budget for a fiscal year pursuant to section 1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for that fiscal year.

"(b) AMOUNTS APPROPRIATED EACH FISCAL YEAR.—Not later than 30 days after the end of each fiscal year, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

"(c) WAIVER.—

"(1) IN GENERAL.—The President may waive or postpone the disclosure required by subsection (a) or (b) for a fiscal year by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

"(A) a statement, in unclassified form, that the disclosure required in subparagraph (a) or (b) for that fiscal year would damage national security; and

"(B) a statement detailing the reasons for the waiver or postponement, which may be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

"(I) that the annual report on outside employment of elements of the intelligence community required by section 102A(u)(2),

"(II) any information not provided to the Secretary of State pursuant to the authority in subparagraph (a) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

"(C) in this paragraph, the term 'intelligence community' has the meaning given that term in section 401a(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. 365. IMPROVING THE REVIEW AUTHORITY OF THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Paragraph (5) of section 706(b) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking "jurisdiction," and inserting "jurisdiction or by a member of the committee of jurisdiction,"; and

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

"(i) the total amount of time it took to process the security clearance determination for such level that—

"(I) was among the 80 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

"(II) took the longest amount of time to complete;

"(ii) the total amount of time it took to process the security clearance determination for such level that—

"(I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

"(II) took the longest amount of time to complete;
"(iii) the number of pending security clearance investigations for such level as of Octo-
ber 1 of the preceding year that have re-
mained pending for—
"(I) more than one year and under two years; and
"(II) between 4 months and 8 months;
"(III) between 8 months and one year; and
"(IV) more than one year;
"(v) the number of reviews during the preceding fiscal year that resulted in a de-
nial or revocation of a security clearance;
"(vi) the percentage of investigations dur-
ing the preceding fiscal year that resulted in incomplete information;
"(vii) the percentage of investigations dur-
ing the preceding fiscal year that did not re-
sult in a final determination to make a de-
sion on potentially adverse information; and
"(viii) for security clearance determina-
tions completed or pending during the pre-
ceding fiscal year that have taken longer than one year to complete—
"(I) the number of security clearance de-
terminations for positions as employees of the United States Government that required more than one year to complete;
"(II) the number of security clearance de-
terminations for contractors that required more than one year to complete;
"(III) the agencies that investigated and adjudicated such determinations; and
"(IV) the cause of significant delays in such determinations.

"(2) For purposes of paragraph (1), the President may consider—

"(A) security clearances at the level of confidential and secret as one security clear-
ance level;
and

"(B) security clearances at the level of top secret or higher as one security clearance
level.

"(c) FORM.—The results required under paragraph (2) shall be submitted in unclassified
form, but may include a classified annex.

"(B) INITIAL AUDIT.—The first audit required to be conducted under section 506H(a)(3) of the National Security Act of 1947, as added by subparagraph (A) of this paragraph, shall be completed not later than February 1, 2011.

"(C) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 347(i) of this Act, is further amended by inserting after the item relating to section 506G, as added by section 323 of this Act, the following new item:

"Sec. 506H. Reports on security clearance quality.

"(2) REPORTING METRICS FOR ADJUDICATION QUALITY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on security clearance investigations and adjudications. Such report shall include—

"(A) United States Government-wide adju-
dication guidelines and metrics for adjudica-
tion quality;

"(B) a plan to improve the professional de-
velopment of security clearance adjudica-
tors;

"(C) metrics to evaluate the effectiveness of interagency clearance reciprocity;

"(D) United States Government-wide invest-
igation standards and metrics for investiga-
tion quality;

"(E) the advisability, feasibility, counter-
intelligence risk, and cost effectiveness of—
"(i) by not later than January 1, 2012, re-
quiring the investigation and adjudication of security clearances to be conducted by not more than two Federal agencies; and

"(ii) by not later than January 1, 2015, re-
quiring the investigation and adjudication of security clearances to be conducted by not more than one Federal agency.

"(b) SECURITY CLEARANCE RECIPROCITY.—

"(1) AUDIT.—The Inspector General of the Intelligence Community shall conduct an audit of the reciprocity of security clear-
cances among the elements of the intelligence community.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the In-

"(D) a contractor seeking permanent em-
ployment with an element of the intelligence community.

"(3) FORM.—The report required under para-
graph (2) shall be submitted in unclassified
form, but may include a classified annex.

"(c) DETERMINATION OF CORRECTION OF DEFICI-
ENCY.—If a long-standing, correctable ma-
terial weakness is corrected, the senior intel-
lence management official who is respon-
sible for correcting such long-standing, corre-
correctable material weakness shall issue a determina-
tion of the correction.

"(1) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the en-
actment of this Act, the head of each element of the intelligence community shall designate a senior intelligence management official of such element to be responsible for correcting long-standing, correctable material weakness of such element.

"(2) HEAD OF A COVERED ELEMENT OF THE IN-
TELLIGENCE COMMUNITY.—The head of a cov-
ed element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting long-standing, correct-
correctable material weakness of such element.

"(c) NOTIFICATION.—Not later than 10 days after the date on which the head of a covered element of the intelligence community has designated a senior intelligence management official pursuant to paragraph (1) or (3) of subsection (b), the Intelligence Community shall provide written notification of such designation to the Director of National In-
elligence and to such senior intelligence management official.

"(d) CORRECTION OF LONG-STANDING, MAT-
erial weakness.—

"(1) DETERMINATION OF CORRECTION OF DE-
FICIENCY.—If a long-standing, correctable ma-
terial weakness of such element.

"(2) BASIS FOR DETERMINATION.—The deter-
novation of the senior intelligence manage-
ment official under paragraph (1) shall be based on the findings of an independent review.

"(3) NOTIFICATION AND SUBMISSION OF FIND-
INGS.—A senior intelligence management official who makes a determination under paragraph (1) shall—

"(A) notify the head of the appropriate cov-
ered element of the Intelligence Community of such determination at the time the deter-
novation is made; and

"(B) ensure that the independent auditor whose findings are the basis of such determina-
tion is notified not later than 30 days after the date on which such determination is made.

"(e) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the Intelligence Community shall notify the congressional intelligence committees not later than 30 days after the date—

"(1) on which a senior intelligence manage-
ment official is designated under paragraph (1) or (3) of subsection (b) and notified under subsection (c); or

"(2) of the correction of a long-standing, correctable material weakness, as verified by an independent auditor under subsection (d)(2).

"(3) REQUIREMENT TO UPDATE DESIGNATION.—
If the head of a covered element of the intelligence community has designated a senior intelligence management official pursuant to paragraph (1) or (3) of subsection (b), the Intelligence Community shall provide written notification of such designation to the Director of National In-
elligence and to such senior intelligence management official.

"SEC. 368. CORRECTING LONG-STANDING MATE-
RIAL WEAKNESSES.

"(a) DEFINITION OF LONG-STANDING, COR-
RECTABLE MATERIAL WEAKNESS.—

"(1) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ‘covered element of the intelligence community’ means—

"(A) the Central Intelligence Agency;

"(B) the Defense Intelligence Agency;

"(C) the National Geospatial-Intelligence Agency;

"(D) the National Reconnaissance Office; or

"(E) the National Security Agency.

"(2) INDEPENDENT AUDITOR.—The term ‘in-
dependent auditor’ means an individual who—

"(A) is a local (A)(1) or local (A)(2) govern-
ment auditor who meets the independence standards included in generally accepted
government auditing standards; or

"(B) is a public accountant who meets such independence standards; and

"(3) REQUIREMENT TO UPDATE DESIGNATION .—

"(A) security clearances at the level of con-
"(B) designation pursuant to paragraph (1) shall—

"(C) a contractor seeking permanent em-
ployment with an element of the intelligence community and

"(d) a contractor seeking permanent em-
ployment with an element of the intelligence community.

"(3) FORM.—The report required under para-
graph (2) shall be submitted in unclassified
form, but may include a classified annex.

"(B) INITIAL AUDIT.—The first audit required to be conducted under section 506H(a)(3) of the National Security Act of 1947, as added by subparagraph (A) of this paragraph, shall be completed not later than February 1, 2011.

"(C) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 347(i) of this Act, is further amended by inserting after the item relating to section 506G, as added by section 323 of this Act, the following new item:

"Sec. 506H. Reports on security clearance quality.

"(2) REPORTING METRICS FOR ADJUDICATION QUALITY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on security clearance investigations and adjudications. Such report shall include—

"(A) United States Government-wide adju-
dication guidelines and metrics for adjudica-
tion quality;

"(B) a plan to improve the professional de-
velopment of security clearance adjudica-
tors;

"(C) metrics to evaluate the effectiveness of interagency clearance reciprocity;

"(D) United States Government-wide invest-
igation standards and metrics for investiga-
tion quality;

"(E) the advisability, feasibility, counter-
intelligence risk, and cost effectiveness of—
"(i) by not later than January 1, 2012, re-
quiring the investigation and adjudication of security clearances to be conducted by not more than two Federal agencies; and

"(ii) by not later than January 1, 2015, re-
quiring the investigation and adjudication of security clearances to be conducted by not more than one Federal agency.

"(b) SECURITY CLEARANCE RECIPROCITY.—

"(1) AUDIT.—The Inspector General of the Intelligence Community shall conduct an audit of the reciprocity of security clear-
cances among the elements of the intelligence community.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the In-

Section 102A(d)(2) of the National Security Act of 1947 (50 U.S.C. 403-3) is amended to read as follows:—

“(e) LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The Headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.”

Subsection (e) of section 103 of the National Security Act of 1947 (50 U.S.C. 403-g) is amended—

(1) in subsection (a)—

(A) by inserting “of the Intelligence Community” after “Chief Information Officer”; and

(B) by striking “President,” and all that follows and inserting “President, the Secretary of Defense, the Secretary of State, the Attorney General of the United States, the Director of National Intelligence, the Director of Central Intelligence, and the Director of the Office of Management and Budget,”

(2) by striking paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (6) the following new paragraph:

“(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or a portion of such element in relation to a failure or deficiency of the Director and the intelligence community or the personnel of such element. Such reviews may include an examination of the root causes of the failure or deficiency and may include an evaluation of the implementation of the recommendations made in such reviews.

(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting accountability reviews under this paragraph.

(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under paragraph (A) and the Director’s recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

(D) The requirements of this paragraph shall not be construed to limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.”

SEC. 405. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) Establishment—

(1) In general.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 347 of this Act, is further amended by adding—

“INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY—

‘‘Sec. 103H. (a) Office of Inspector General of the Intelligence Community.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

‘‘(b) Purpose.—The purpose of the Office of the Inspector General of the Intelligence Community is—

‘‘(1) to provide a means for keeping the Director of National Intelligence fully and currently informed concerning the responsibility for supervising the performance of investigative activities relating to programs and activities within the responsibility and authority of the Director;

‘‘(2) to provide leadership and coordination and recommend policies for activities designed—

‘‘(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

‘‘(B) to prevent and detect fraud and abuse in such programs and activities;

‘‘(3) to take due regard for the protection of intelligence sources and methods described in subsections (c) and (d) as subsections (b) and (c), respectively; in subsection (b) as so redesignated, by inserting “of the Intelligence Community” after “Chief Information Officer”; and in subsection (c) (as so redesignated), by inserting “of the Intelligence Community” before “may not”;

‘‘(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

‘‘(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director; and

‘‘(B) the necessity for, and the progress of, corrective actions.

‘‘(e) Assistant Inspectors General.—

‘‘(1) Appointments by Director.—The Director of National Intelligence may appoint, subject to the advice and consent of the Senate, an Assistant Inspector General of the Intelligence Community.

‘‘(2) Duties and Responsibilities.—It shall be the duty and responsibility of the Assistant Inspector General of the Intelligence Community to—

‘‘(A) be responsible to the Director of National Intelligence for the performance of duties of the Office of the Inspector General that, in the judgment of the Inspector General, are necessary in the performance of the duties of the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to take such action as is necessary to implement such corrective action.

‘‘(c) Inspector General of the Intelligence Community.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

‘‘(2) The nomination of an individual for appointment as Inspector General shall be made—

‘‘(A) without regard to political affiliation; and

‘‘(B) on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

‘‘(C) on the basis of demonstrated ability in auditing, financial, management analysis, public administration, or inspections.

‘‘(3) The Inspector General shall report directly to the President under the general supervision of the Director of National Intelligence.

‘‘(4) The Inspector General may be removed from office only by the President, the President of the Intelligence Community, and the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal.

‘‘(d) Assistant Inspectors General.—

‘‘(1) Appointments by Director.—The Director of National Intelligence, with the advice and consent of the Senate, shall appoint the Assistant Inspectors General of the Intelligence Community, who shall—

‘‘(A) serve at the pleasure of the Director; and

‘‘(B) be responsible to the Director of National Intelligence for the performance of duties assigned to that office.

‘‘(DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the Intelligence Community to—

‘‘(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

‘‘(2) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be necessary to minimize the disclosure of intelligence sources and methods described in such reports; and

‘‘(3) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.
"(f) LIMITATIONS ON ACTIVITIES.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

"(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall provide notice of the prohibition to the congressional intelligence committees.

"(3) The Inspector General shall have the same force and effect as if administered or taken by, or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General.

"(4) The Inspector General may submit to the congressional intelligence committees any comments on the statement of which the Inspector General has notice under paragraph (2).

"(g) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have access to and information, other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

"(2) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

"(3) The Inspector General has the same force and effect as if administered or taken by, or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General.

"(4) The Inspector General may not issue a subpoena, or other data and in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of such responsibilities of the Inspector General.

"(5) The Inspector General may obtain the services of a counsel appointed or employed has security clearance of contract personnel, records, audits, recommendations, or other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

"(6) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for determining access to any materials under subparagraph (C).

"(7) The Director, or on the recommendation of another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, who fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

"(8) The Inspector General is authorized to receive and investigate, pursuant to subsection (b), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety that such complaint or information has been received from an employee of the intelligence community.

"(A) The Inspector General shall not disclose the identity of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be initiated.

"(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General, or any action taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(9) The Inspector General shall have the authority to require any person to answer, under oath, or to make written or oral statements, records, accounts, and other data and evidence for the purpose specified in subparagraph (B), to produce all information, documents, reports, answers, records, data, and other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

"(10) In the case of contumacy or refusal to obey a subpoena issued under this section, the subpoena shall be enforceable by order of any appropriate district court of the United States.

"(11) The Inspector General may obtain services of an individual at rate of basic pay payable for grade GS–15 of the General Schedule or other grade for which a rate is prescribed under section 5332 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

"(12) The Inspector General is authorized to provide such office locations, together with such equipment, communications facilities and services, as may be necessary for the operation of such offices.

"(13) The Inspector General may authorize the employment of individuals other than an employee of the intelligence community that has not been resolved with the appropriate entity that has not been resolved with the appropriate entity.

"(14) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be referred to the inspector general conducting an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and such other inspector general with oversight responsibility for an element of the intelligence community.

"(15) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no authorit"
cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

‘(3) A report with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has found a lack of

‘(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

‘(B) personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Community. The Director of National Intelligence shall file a written notification with the inspector general when notified of the decision.

‘(d) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

‘(B) Upon request of the Inspector General for information or assistance under subparagraph (a)(1), the Department of Justice, and any other element of the United States Government, shall furnish to the Inspector General, such information or assistance.

‘(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element’s inspector general pursuant to section 503(b), request or require by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

‘(k) Reports.—(1) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 of the preceding year and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

‘(B) Each report under this paragraph shall include, at a minimum, the following:

‘(i) A list of the title or subject of each investigation, inspection, audit, or review carried out by the Inspector General during the period covered by such report.

‘(ii) A description of significant problems, abuses, or deficiencies relating to the administration of programs and activities of the intelligence community within the responsibilities and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

‘(III) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

‘(IV) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has not been completed, a description of such corrective action.

‘(V) A certification of whether or not the Inspector General has had full and direct access to all programs and activities of the intelligence community, summarized in the performance of the functions of the Inspector General.

‘(VI) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

‘(VII) Examinations as the Inspector General considers appropriate for legislative to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

‘(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit the report to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

‘(2) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

‘(D)(i) If the Inspector General is not the subject of the report, the Inspector General shall transmit the report to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

‘(ii) The Inspector General may transmit to the Director a notice of that determination, together with the report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.

‘(5)(A) An employee of an element of the intelligence community, an employee as signed or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who—

‘(I) holds or held a position in an element of the intelligence community; or

‘(ii) an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former employee’s intent to contact the congressional intelligence committees directly; and

‘(iii) a matter requires a report by the Inspector General under subparagraph (B) to the congressional intelligence committees.

‘(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

‘(C) The Inspector General shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.

‘(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

‘(ii) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), the Inspector General shall not disclose the complaint or information to the Director in an accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by a congressional direction or request.

‘(E) An employee may contact the congressional intelligence committees directly if the employee’s intent to contact the congressional intelligence committees directly is described in clause (i) only if the employee—

‘(i) before making such a contact, furnishes to the Director, through the Inspector General, the statement of the employee’s complaint or information and notice of the employee’s intent to contact the congressional intelligence committees directly; and

‘(ii) obtains and fulfills, through the Inspector General, the Director of the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former employee described in clause (i) or (ii).

‘(c) The Director shall transmit to the Inspector General, a statement of the employee’s complaint or information, together with any comments the Director considers appropriate.
receives a complaint or information under this subparagraph does so in that member or employee’s official capacity as a member or employee of such committee.

(c) representing the Office of the Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph as soon as practicable after the completion of such action. Such notice shall be provided not later than 3 days after any such action is taken.

(f) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(g) The term ‘urgent concern’ means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency in the funding, administration, supervision, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful concealment, obstruction, or attempt by an employee under section 17(d) of the Central Intelligence Act of 1949 (50 U.S.C. 402 et seq.) to influence, obstruct, or defeat any proceeding under that Act.

(h) Nothing in this section shall be construed to limit the protections afforded to an employee’s reporting an urgent concern under section 17(d) of the Central Intelligence Act of 1949, as added by subsection (A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (b)(2) of section 1203 of title 5, United States Code, or to authorize the implementation of an employee’s reporting an urgent concern in accordance with this paragraph.

(i) An action described in section 202(a)(2) of title 5, United States Code, is further amended by—

(1) inserting after ‘Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of the Inspector General of the Intelligence Community.’

(2) a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

(3) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

(j) In transmitted a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

(B) the amount requested for Inspector General training;

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

(D) the comments of the Inspector General, if any, with respect to such proposed budget.

(k) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A); and

(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B).

(l) An action taken by the Director for support of the Council of the Inspectors General on Integrity and Efficiency pursuant to the paragraph (2)(D), if any, on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.

(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall—

(1) the aggregate amount requested for the Office of the Inspector General for such fiscal year;

(2) the amount requested for the training of personnel of the Office of the Inspector General for such fiscal year;

(3) the amount requested for support of the Council of the Inspectors General on Integrity and Efficiency for such fiscal year;

(4) the comments of the Inspector General, if any, with respect to such proposed budget;

(5) the comments of the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources.

(2) table of contents amendment.—The table of contents in the first section of the National Security Act of 1947, as amended by section 471 of this Act, is further amended by inserting after ‘Sec. 103H. Inspector General of the Intelligence Community.’

(pay of inspector general.—Subparagraph (A) of section 347 of this Act, is further amended by inserting after the term ‘Director’ the term ‘Inspector General’.
as added by section 405(a)(2), the following new item:

“Sec. 1031. Chief Financial Officer of the Intelligence Community.”.

SEC. 407. LEADERSHIP AND LOCATION OF CERTAIN OFFICERS AND OFFICIALS.

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119(a) of the National Security Act of 1947 (50 U.S.C. 406–4a(a)) is amended—

(1) by striking “Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004,” and inserting “(1) The;”;

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

“(A) the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

“(B) The Director of National Intelligence.”.

(b) OFFICERS.—Section 1030(a) of that Act (50 U.S.C. 403–3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (14); and

(2) by inserting after paragraph (8) the following new paragraphs:

“(9) The Chief Information Officer of the Intelligence Community.

“(10) The Inspector General of the Intelligence Community.

“(11) The Director of the National Counterterrorism Center.

“(12) The Director of the National Counter Proliferation Center.

“(13) The Chief Financial Officer of the Intelligence Community.”.

SEC. 408. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) In General.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:


“(a) In General.—The term ‘exempted operational files’ shall be available under the terms set forth in section 552a(4)(B) of title 5, United States Code, as amended by title VII of the National Security Act of 1947.

“(b) Table of Contents Amendment.—The provisions of this section that the Office has withheld records improperly because of failure to comply with any provision of this section, the court shall order the Office to search and review each appropriate exempted file for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section.

“(c) Except as otherwise specifically provided, the term ‘Office’ means the Office of the Director of National Intelligence.”.

SEC. 409. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.

Section 1102 of the National Security Act of 1947 (50 U.S.C. 442a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2); and

(B) by striking “(1) In” and inserting “(1) The;”;

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by striking “(1) The” and inserting “The”.
SEC. 410. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “or”;

(2) in paragraph (2), by striking the period and inserting “or”; and

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

“(3) the Office of the Director of National Intelligence, if the Director of National Intelligence determines that for reasons of national security such advisory committee cannot comply with the requirements of this Act.”

(b) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

(A) a description of each such advisory committee, including the subject matter of the committee; and

(B) a list of members of each such advisory committee.

(2) REPORT ON REASONS FOR ODNI EXCLUSION OF ADVISORY COMMITTEE FROM FAC.—Each report submitted by the Director of National Intelligence in accordance with paragraph (1) shall include the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App.), as added by subsection (a) of this section, that an advisory committee cannot comply with the requirements of such Act.

SEC. 411. MEMBERSHIP OF THE Director of NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

“(F) The Director of National Intelligence, or the Director’s designee.”

SEC. 412. REPEAL OF CERTAIN AUTHORITY RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXCUTIVE.

(a) REPEAL OF CERTAIN AUTHORITY.—Section 904 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402c) is amended—

(1) by striking subsections (a), (b), (c), and (d); and

(2) by redesignating subsections (e), (f), (g), (h), (i), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

(1) in subsection (b), as redesignated by subsection (a)(2) of this section, by striking “subsection (f)” each place it appears in paragraphs (1) and (2) and inserting “subsection (g)”;

(2) in subsection (e), as so redesignated—

(A) in paragraph (1), by striking “subsection (e)(1)” and inserting “subsection (d)(1)”;

(B) in paragraph (2), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”;

SEC. 413. MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

(a) PROHIBITION.—Title XI of the National Security Act of 1947 (50 U.S.C. 422 et seq.) is amended by adding at the end the following new section:

“MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

“SEC. 1103. (a) PROHIBITED ACTS.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director—

(1) intentionally use the words ‘Office of the Director of National Intelligence’, the initials ‘ODNI’, the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, seal, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

“(b) INJUNCTION.—Whenever it appears to the Attorney General that any person is engaged in, or is about to engage in, an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may institute a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining order, temporary injunction, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.’’.?

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 408 of this Act, is further amended by inserting after the item relating to section 1102 the following new item:

“Sec. 1103. Misuse of the Office of the Director of National Intelligence name, initials, or seal.”

SEC. 414. PLAN TO IMPLEMENT RECOMMENDATIONS OF THE DATA CENTER ENERGY EFFICIENCY REPORTS.

(a) PLAN.—The Director of National Intelligence shall develop a plan to implement the recommendations of the report submitted to Congress under section 1 of the Act entitled “An Act to study and promote the use of energy efficient computer servers in the United States” (Public Law 109–431; 120 Stat. 2920) across the intelligence community.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the plan developed under subsection (a).

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

SEC. 415. DIRECTOR OF NATIONAL INTELLIGENCE SUPPORT FOR REVIEWS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS AND EXPORT ADMINISTRATION REGULATIONS.

The Director of National Intelligence may provide support for any review conducted by a department or agency of the United States Government of the International Traffic in Arms Regulations or Export Administration Regulations, including a review of technologies and goods on the United States Munitions List and Commerce Control List that may warrant controls that are different or additional to the controls such technologies and goods are subject to at the time of such review.
Director of the Central Intelligence Agency assumes the duties of such position; or
(2) the date of the cessation of the performance of the duties of the Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

SEC. 424. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.

Subsection (b) of section 116 of the National Security Act of 1949 (50 U.S.C. 404k) is amended by striking the second and third sentences and inserting “This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall be made on the basis of compliance with the sensitivity standards of the Agency and prior experience in the field of foreign intelligence.”

SEC. 425. APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

(a) APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL.—Paragraph (1) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended by inserting the second and third sentences and inserting “who may delegate such authority to other appropriate officials of the Central Intelligence Agency.”

(b) REMOVAL OF THE INSPECTOR GENERAL.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended—
(1) by striking “immediately”;
(2) by striking the period at the end and inserting “such appointment or obtained under subparagraph (A) shall perform such functions as the Inspector General may prescribe.”

(c) CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(C) shall be construed to alter the duties and responsibilities of the General Counsel of the Central Intelligence Agency.

SEC. 426. BUDGET OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

Subsection (1) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—
(1) by inserting “(1)” before “Beginning”;
(2) by adding at the end the following new paragraph:
“(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—
(1) the aggregate amount requested for the operations of the Inspector General;
(2) the amount requested for all training requirements specified by the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and
(3) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.
(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—
(1) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;
(2) the amount requested for Inspector General training;
(3) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and
(4) the comments of the Inspector General, if any, with respect to such proposed budget.
(4) The Director of National Intelligence shall submit to the Committee on Appropriations of both Houses of Congress, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—
(1) a separate statement of the budget estimate transmitted pursuant to paragraph (2); and
(2) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3)(A); and
(3) the comments of the Inspector General, if any, with respect to such proposal, and
(4) the comments of the Inspector General for training of personnel of the Inspectors General pursuant to paragraph (3)(B); and
(5) the comments of the Inspector General for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (3)(C); and
(6) any other information that the Inspector General considers appropriate.

SEC. 427. PUBLIC AVAILABILITY OF UNCLASSIFIED VERSIONS OF CERTAIN INTELLIGENCE PRODUCTS.

The Director of the Central Intelligence Agency shall make publicly available an unclassified version of all finished intelligence products and any finished intelligence products assessed by the Central Intelligence Agency for purposes of this section.

SEC. 428. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.

(a) COVERAGE UNDER INSPECTOR GENERAL ACT.—Subsection (a) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—
(1) by inserting “the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Intelligence Agency, the National Reconnaissance Office, the National Security Agency, and the National Laboratories;”;
(2) by inserting “the Corporation for Public Broadcasting;”;
(3) by inserting “the National Geospatial-Intelligence Agency;” after “the National Government for the Homeland;”.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new paragraph:
“(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes for this section.”

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—
(1) by inserting “(1)” after “(d)”; and
(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking “the head” and inserting “Except as provided in paragraph (2), the head”; and
(3) by adding at the end the following new paragraph:
“(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the Inspector General of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any investigation if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.
(2) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.
(3) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the intelligence community and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on a notice or statement received under this paragraph that the inspector general considers appropriate.
SEC. 433. DIRECTOR OF COMPLIANCE OF THE NATIONAL SECURITY AGENCY.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

"Sec. 2. There is a Director of Compliance of the National Security Agency, who shall be appointed by the Director of the National Security Agency and who shall be responsible for compliance with the provisions covering the operations of the National Security Agency.".

Subtitle D—Other Elements

CODIFICATION OF ADDITIONAL ELEMENTS OF THE INTELLIGENCE COMMUNITY

Section 301 of the National Security Act of 1947 (50 U.S.C. 404(a)) is amended—

(1) in paragraph (4) of section 301, by striking "(4) the Federal Bureau of Intelligence," and inserting "(4) the National Geospatial-Intelligence Agency;";

(2) in subsection (a)(2), by striking "and" and inserting "; and"; and

(2) in subsection (b)(2), by striking the period at the end and inserting "; and"

SEC. 432. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSTATIONAL INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.

After the first section the following new section is added—

"(5) The functions of the National Geospatial-Intelligence Agency shall be to—

(A) acquire, analyze, disseminate, and archive geospatial and geographic information, and

(B) support the activities of the National Geospatial-Intelligence Agency that are conducted in a manner consistent with the provisions of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by section 433 of this Act.

SEC. 442. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD NATIONAL TACTICAL INTEGRATION OFFICE.

Title 14, United States Code, is amended—

(1) in paragraph (4) of section 93(a), by striking "function" and inserting "functions," including research, development, test, or evaluation related to intelligence systems and capabilities;"; and

(2) in section 662, by inserting "intelligence systems and capabilities or" after "related to".

SEC. 443. RETENTION AND RELOCATION BONUSES FOR THE FEDERAL BUREAU OF INVESTIGATION.

Section 535 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking "is transferred to a position in a different geographical area" and inserting "subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills"; and

(2) in subsection (b)(2), by striking the period at the end and inserting "; and"

SEC. 444. EXTENSION OF THE AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.

(a) Civil Service Retirement System.

Subsection (b) of section 8335 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2898), by striking "2009" and inserting "2011"; and

(2) by striking the paragraph (2) enacted by section 105(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

(b) Federal Law Enforcement Retirement System.

Subsection (b) of section 4125 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2898), by striking "2009" and inserting "2011"; and

(2) by striking the paragraph (2) enacted by section 105(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

SEC. 445. REQUIREMENTS FOR FEDERAL AGENCIES ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) REPORT.

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Director of National Intelligence, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report describing—

(A) the transformation of the intelligence capabilities of the National Security Branch of the Bureau;

(B) a strategic plan for the National Security Branch; and

(C) the progress made in advancing the capabilities of the National Security Branch.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of the direction, strategy, and goals for improving the intelligence capabilities of the National Security Branch;

(B) a description of the intelligence and national security capabilities of the National Security Branch and how it is being using the resources and the opportunities to advance the mission of the National Security Branch.

(b) ANNUAL ASSESSMENT.

(1) REQUIREMENT FOR ASSESSMENTS.—Not later than 180 days after the date at which the report required by subsection (a)(1) is submitted, and annually thereafter for five years, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives an assessment of the performance of the National Security Branch in carrying out the tasks referred to in clauses (i) through (vi) of subsection (a) and a description of the activities being undertaken to ensure that the performance of the National Security Branch in carrying out such tasks improves;

(F) an assessment of the effectiveness of the field office supervisory term limit policy of the Federal Bureau of Investigation that requires the mandatory retirement of a supervisor of the Bureau after a specific term of years; and

(b) ANNUAL ASSESSMENTS.—(A) REQUIREMENT FOR ASSESSMENTS.—Not later than 180 days after the date at which the report required by subsection (a)(1) is submitted, and annually thereafter, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives an assessment of the performance of the National Security Branch in carrying out the tasks referred to in clauses (i) through (vi) of subsection (a)(2) and in comparison to such performance during prior years.

(b) ANNUAL ASSESSMENTS.—In conducting each assessment required by paragraph (1), the Director of National Intelligence—

(A) shall use the performance metrics and specific annual timetables for advancing the performance of the tasks referred to in clauses (i) through (vi) of subsection (a) and a description of the activities being undertaken to ensure that the performance of the National Security Branch in carrying out such tasks improves; and

(B) may request the assistance of any other element or organization whose assistance is appropriate, including an inspector general of an appropriate department or agency.
TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

SEC. 501. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) REORGANIZATION.—The Diplomatic Telecommunications Service Program Office established pursuant to title V of Public Law 102–140 shall be reorganized in accordance with this subtitle.

(b) DUTIES.—The duties of the DTS–PO include implementing a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government departments and agencies operating from diplomatic and consular facilities in the United States, including national security needs for secure, reliable, and robust communications capabilities.

(c) CHAIR DUTIES AND AUTHORITIES.—The Chair of the Governance Board shall—

(1) preside over all meetings and deliberations of the Governance Board;

(2) provide the Secretariat functions of the Governance Board; and

(3) propose bylaws governing the operation of the Governance Board.

(4) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members of the Governance Board shall require a majority of the voting membership. The Chair shall convene a meeting of the Governance Board not less than four times each year to carry out their functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

(e) GOVERNANCE BOARD.—The Governance Board shall have the following duties with respect to the DTS–PO:

(1) To define the plans, services, priorities, policies, and pricing methodology of the DTS–PO for bandwidth costs and projects carried out at the request of a department or agency that uses the DTS Network.

(2) To provide to the DTS–PO Executive Agent the recommendation of the Governance Board with respect to the approval, disapproval, or modification of each annual budget request for the DTS–PO, prior to the submission of any such request by the Executive Agent.

(3) To review the performance of the DTS–PO against plans approved under paragraph (1) and the management activities and internal controls of the DTS–PO.

(4) To require from the DTS–PO any plans, reports, documents, and records the Governance Board considers necessary to perform its oversight responsibilities.

(5) To conduct and evaluate independent audits of the DTS–PO.

(6) To approve or disapprove the nomination of the DTS–PO by the DTS–PO Executive Agent with a majority vote of the Governance Board.

(7) To recommend to the Executive Agent the replacement of the DTS–PO Executive Agent with a majority vote of the Governance Board.

(8) To maintain proper internal controls of the DTS–PO.

(9) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

SEC. 502. ESTABLISHMENT OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.

(a) GOVERNANCE BOARD.—

(1) ESTABLISHMENT.—There is established the Diplomatic Telecommunications Service Governance Board to direct and oversee the activities and performance of the DTS–PO.

(2) EXECUTIVE AGENT.—

(A) DESIGNATION.—The Director of the Office of Management and Budget shall designate, from among the departments and agencies of the United States Government that use the DTS Network, a department or agency as the DTS–PO Executive Agent.

(B) DUTIES.—The Executive Agent designated under subparagraph (A) shall—

(i) nominate a Director of the DTS–PO for approval by the Governance Board in accordance with subsection (e); and

(ii) perform such other duties as established by the Governance Board in the determination of written implementing arrangements and agreements and the governance processes and procedures under paragraph (3).

(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—To the requirements of this subtitle, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource, or otherwise administer the DTS–PO.

(b) MEMBERSHIP.—

(1) DESIGNATION.—The Director of the Office of Management and Budget shall designate from among the departments and agencies that use the DTS Network:

(A) such departments and agencies to each appoint one voting member of the Governance Board from the personnel of such departments and agencies; and

(2) voting and nonvoting members.—The Governance Board shall consist of voting members and nonvoting members as follows:

(A) VOTING MEMBERS.—The voting members appointed by departments and agencies designated under paragraph (1)(A).

(B) NONVOTING MEMBERS.—The nonvoting members appointed by departments and agencies designated under paragraph (1)(B) and shall act in an advisory capacity.

(c) SELECTION.—The Chair of the Governance Board shall—

(1) select the person designated as Chair of the Governance Board from the personnel of such departments and agencies and shall act in an advisory capacity.

(4) CHAIR AND VOTING AUTHORITIES.—The Chair of the Governance Board shall—

(1) preside over all meetings and deliberations of the Governance Board;

(2) provide the Secretariat functions of the Governance Board; and

(3) propose bylaws governing the operation of the Governance Board.

(5) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members of the Governance Board and shall require a majority of the voting membership. The Chair shall convene a meeting of the Governance Board not less than four times each year to carry out their functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

(6) To approve or disapprove the nomination of the DTS–PO by the DTS–PO Executive Agent with a majority vote of the Governance Board.

(7) To recommend to the Executive Agent the replacement of the DTS–PO Executive Agent with a majority vote of the Governance Board.

(8) To maintain proper internal controls of the DTS–PO.

(9) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

SEC. 503. FUNDING OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and the DTS–PO. Funds appropriated for allocation to the DTS–PO shall remain available to the DTS–PO for a period of two fiscal years.

(b) FEES.—The DTS–PO shall charge a department or agency that uses the DTS Network for the bandwidth costs attributable to such department or agency and for specific projects carried out at the request of such department or agency, pursuant to the pricing methodology for such bandwidth costs and such projects approved under section 502(e)(1), for which amounts have not been appropriated for allocation to the DTS–PO. The DTS–PO is authorized to directly receive payments from departments or agencies that use the DTS Network and to invoice such departments or agencies for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing such projects. Such fees received from such departments or agencies shall remain available to the DTS–PO for a period of two fiscal years.

SEC. 524. DEFINITIONS.

In this subchapter:

(1) DTS NETWORK.—The term ‘DTS Network’ means the worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities outside of the United States.

(2) DTS–PO.—The term ‘DTS–PO’ means the Diplomatic Telecommunications Service Program Office.

(3) GOVERNANCE BOARD.—The term ‘Governance Board’ means the Diplomatic Telecommunications Service Governance Board established under section 502(a)(1).

(4) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the Intelligence Authorization Act, Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2631) is amended by striking the items relating to sections 321, 322, 323, and 324 and inserting the following new item:

‘Sec. 321. Diplomatic Telecommunications Service Program Office.’

‘Sec. 322. Establishment of the Diplomatic Telecommunications Service Program Office.’

‘Sec. 323. Funding of the Diplomatic Telecommunications Service.’

‘Sec. 324. Definitions.’

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUSPENSION OF REORGANIZATION.—


(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 311.

(2) REPEAL OF REFORM.—

(A) REPEAL.—The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–567 and comprising G of that Act; 113 Stat. 1501A–405) is amended by striking section 305.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2(b) of such Act is amended by striking the item related to section 305.

(3) REPEAL OF REPORTING REQUIREMENTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415(b)), as amended by section 351 of this Act, is further amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ‘Foreign Intelligence and Information Commission Act’.

SEC. 602. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ‘Commission’ means the Foreign Intelligence and Information Commission established in section 603(a).

(2) FOREIGN INTELLIGENCE INTELLIGENCE.—The terms ‘foreign intelligence’ and ‘intelligence’ have the meaning given those terms.
SEC. 603. ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established in the legislative branch a Foreign Intelligence Commission.

(b) PURPOSE.—The purpose of the Commission is to evaluate systems and processes at the strategic, interagency level and provide recommendations accordingly, and not to seek to duplicate the functions of the Director of National Intelligence.

(c) POWERS.—The Commission shall—

(1) evaluate the current processes or systems for the strategic integration of the intelligence community, including the Open Source Center, and other elements of the United States Government, including the Department of State, with regard to the collection, reporting, and analysis of foreign intelligence information;

(2) provide recommendations to improve or develop such processes or systems to integrate the unique capabilities within the elements of the United States Government, potentially including the development of an interagency strategy that identifies—

(A) priorities, comparative institutional advantages, and any other relevant factors; and

(B) best and resource allocations necessary to achieve such collection, reporting, and analytical requirements;

(3) evaluate the extent to which current intelligence collection, reporting, and analysis strategies are intended to provide global coverage and anticipate future threats, challenges, and crises;

(4) provide recommendations on how to incorporate into the interagency strategy the means to anticipate future threats, challenges, and crises, including by identifying and assessing collection and reporting capabilities that are global in scope and directed at emerging, long-term, and strategic targets;

(5) provide recommendations on strategies for sustaining human and budgetary resources to effect the global collection and reporting missions identified in the interagency strategy, including the prepositioning of collection and reporting capabilities;

(6) provide recommendations for developing and, if necessary, bolstering current and future collection and reporting roles and capabilities of elements of the United States Government that are not elements of the intelligence community deployed in foreign countries;

(7) provide recommendations related to the role of individual country missions in contributing to interagency strategy;

(8) evaluate the extent to which the establishment of new embassies and out-of-embassy posts are able to contribute to expanded global intelligence and increased collection and reporting and provide recommendations related to the establishment of new embassies and out-of-embassy posts;

(9) provide recommendations on executive or legislative changes necessary to establish any new executive branch entity or to expand the authorities of any existing executive branch entity, as needed to improve the strategic integration referred to in paragraph (1) and develop and oversee the implementation of such strategy; and

(10) provide recommendations on processes for developing and presenting to Congress budget requests for each relevant element of the United States Government outside the intelligence community, as well as any budgetary, legislative, or other changes needed to achieve such strategy.

SEC. 604. MEMBERS AND STAFF OF THE COMMISSION.

(a) MEMBERS OF THE COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 10 members as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) One nonvoting member appointed by the Director of National Intelligence.

(F) One nonvoting member appointed by the Secretary of State.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be individuals who—

(i) are not officers or employees of the United States Government or any State or local government;

(ii) have knowledge and experience—

(I) in foreign information and intelligence collection, reporting, and analysis, including clandestine collection and classified analysis (such as experience in the intelligence community, diplomatic reporting and analysis, and collection of public and open-source information);

(II) in issues related to the national security and foreign policy of the United States gained by virtue of employment by the Department of State, a member of the Foreign Service, an employee or officer of an appropriate department or agency of the United States Government, or an independent organization with expertise in the field of international affairs; or

(III) with foreign policy decision-making;

(B) DIVERSITY OF EXPERIENCE.—The individuals appointed to the Commission should be selected with a view to establishing diversity of experience with regard to various geographic regions, functions, and issues;

(C) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1994, as adjusted by any order of the President pro tempore of the Senate.

(b) STAFF.—

(1) IN GENERAL.—The chair of the Commission shall have such staff as may be necessary to provide recommendations, reports, and other outputs to the Commission.

(2) STAFF AND SERVICES OF OTHER AGENCIES.—

(A) STAFF.—The chair of the Commission may, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at rates for employees or officers of a department or agency of the United States Government that reflect the appropriate rate of basic pay payable under section 5376 of title 5, United States Code, at rates for individuals not to exceed the rate of basic pay payable under section 5501 of title 5, United States Code, at rates for individuals not to exceed the rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(e)), as adjusted by any order of the President pro tempore of the Senate.

(B) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate equivalent of the maximum annual rate of basic pay payable under section 5556 of such title.

(c) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate equivalent of the maximum annual rate of basic pay payable under section 5556 of such title.

(d) STAFF AND SERVICES OF OTHER AGENCIES.—

(1) IN GENERAL.—The chair of the Commission may, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at rates for individuals not to exceed the rate equivalent of the maximum annual rate of basic pay payable under section 5556 of such title.

(2) STAFF.—The chair of the Commission may, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at rates for individuals not to exceed the rate equivalent of the maximum annual rate of basic pay payable under section 5556 of such title.

(3) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate equivalent of the maximum annual rate of basic pay payable under section 5556 of such title.

(4) TIME OF APPOINTMENT.—The appointments under subsection (a) shall be made—

(A) after the date on which funds are first appropriated to carry out this title; and

(B) not later than 60 days after such date.

(5) TERM OF APPOINTMENT.—

(1) IN GENERAL.—Members shall be appointed for 3 years and shall serve until their successors are appointed.

(2) VACANCIES.—Vacancies occurring by reason of the death, resignation, or removal of any member shall be filled in the same manner in which the original appointment was made.

(6) COMMISSION.—The Commission shall constitute a quorum for the transaction of business of the Commission.

(7) CHAIR.—The voting members of the Commission shall designate one of the voting members to serve as the chair of the Commission.

(8) QUORUM.—Five voting members of the Commission shall constitute a quorum for the transaction of the business of the Commission.

(9) MEETINGS.—The Commission shall meet at the call of the chair and shall meet regularly at least once every 3 months, during the life of the Commission.

(10) MEETINGS.—The chair shall preside at the meetings of the Commission.

(11) MEETINGS.—The chair shall preside at the meetings of the Commission.
(f) Reports under ethics in government act of 1978.—Notwithstanding any other provision of law, for purposes of title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), each member and staff of the Commission—

(1) shall be deemed to be an officer or employee of the Congress (as defined in section 109(b) of such title); and

(2) shall file any report required to be filed by such member or such staff (including by virtue of the application of paragraph (1) under section 109(b)) of such title.

SEC. 605. POWERS AND DUTIES OF THE COMMISSION.

(a) Hearings and Evidence.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) Information from Federal Agencies.—The Commission may request to carry out this title. The Director of National Intelligence or any other Federal agency shall furnish such information to the Commission, subject to applicable law.

(c) Administrative Support.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this title.

(d) Administrative Procedures.—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable the Commission to carry out this title.

(e) Travel.—The members and staff of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out this title.

(f) Records.—The head of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(g) Gifts.—No member or staff of the Commission may receive a gift or benefit by reason of the service of such member or staff to the Commission.

SEC. 606. REPORT OF THE COMMISSION.

(a) In General.—(1) Interim report.—Not later than 300 days after the date of this Act, and each 300 days thereafter, on which all members of the Commission are appointed under section 604(a), the Commission shall submit to the congressional intelligence committees an interim report setting forth the preliminary evaluations and recommendations of the Commission described in section 602(c).

(2) Final report.—Not later than 60 days after the date of the submission of the report required by paragraph (1), the Commission shall submit a final report setting forth the final evaluations and recommendations of the Commission described in section 602(c) to each of the following:—

(A) The President.

(B) The Director of National Intelligence.

(C) The Majority Leader of the Senate.

(D) The congressional intelligence committees.

(E) The Committee on Foreign Relations of the Senate.

(F) The Committee on Foreign Affairs of the House of Representatives.

(2) in section 103, by redesignating subsection (2) as subsection (3); and

(6) in section 201, by striking ‘‘the United States’’ and inserting ‘‘United States’’, ‘‘person’’, ‘‘weapon of mass destruction’’, and ‘‘State’’.

(2) in section 304(b), by striking ‘‘subsection (a)(3)’’ and inserting ‘‘subsection (a)(2)’’; and

(6) in section 502(a), by striking ‘‘a annual’’ and inserting ‘‘an annual’’.

SEC. 802. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 401 et seq.) is amended—

(1) in section 101—

(A) in subsection (a), by moving paragraph (2) two ems to the right; and

(B) by moving subsections (b) through (p) two ems to the right;

(2) in section 103, by redesignating subsection (i) as subsection (h); and

(3) in section 109(a)—

(A) in paragraph (1), by striking ‘‘section 102’’; and

(B) in paragraph (2), by striking the second sentence; and

(4) in section 301, by striking ‘‘United States’’ and all that follows through ‘‘United States’’, ‘‘person’’, ‘‘weapon of mass destruction’’, and ‘‘State’’;

(5) in section 304(b), by striking ‘‘subsection (a)(3)’’ and inserting ‘‘subsection (a)(2)’’; and

(6) in section 502(a), by striking ‘‘an annual’’ and inserting ‘‘an annual’’.

TITLES—OTHER MATTERS

TITLE VII—OTHER MATTERS

SEC. 701. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) Extension.—Effective on the date on which funds are first appropriated pursuant to subsection (b)(1) and subject to paragraph (3), subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking ‘‘September 1, 2004,’’ and inserting ‘‘one year after the date on which the Commission is first appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010.’’

(b) Applicability of Amendment.—The amendment made by paragraph (1) shall take effect as if included in the enactment of such section 1007.

(c) Commission Membership.—The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 50 U.S.C. 401 note) (referred to in this section as the ‘‘Commission’’) shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by this section.

(d) Clarification of Duties.—Section 10221 of such Act is amended in the matter preceding paragraph (1) by striking ‘‘including—’’ and inserting ‘‘including advanced research and development programs and activities. Such review shall include—’’.

(e) Funding.—

(1) In General.—There is authorized to be appropriated such sums as may be necessary to carry out this title.

(2) Availability.—Amounts made available to the Commission pursuant to paragraph (1) shall remain available until expended.

(3) Repeal of existing funding authority.—Section 1010 of the Intelligence Authorization Act for Fiscal Year 1997 (50 U.S.C. 401 note) is repealed.

(4) Technical Amendments.—The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking ‘‘Director of Central Intelligence’’ in each place it appears and inserting ‘‘Director of National Intelligence’’.

b. In section 1006(b), by inserting ‘‘The President’’ after ‘‘Senator’’; and

(5) in section 1006(c), by striking ‘‘Secretary’’ and inserting ‘‘The Deputy Director of Central Intelligence’’.

(6) In section 1007, by striking ‘‘Secretary’’ and inserting ‘‘The Deputy Director of Central Intelligence’’ in each place it appears and inserting ‘‘The Principal Deputy Director of Central Intelligence’’.

SEC. 702. CLASSIFICATION REVIEW OF EXECUTIVE BRANCH MATERIALS IN THE POSSESSION OF THE NATIONAL INTELLIGENCE COMMUNITY COMMITTEES.

The Director of National Intelligence is authorized to conduct, at the request of one of the congressional intelligence committees and in accordance with procedures established by that committee, a classification review of materials in the possession of that committee—

(1) that are not less than 25 years old; and

(2) that were created, or procured for the use of the committee, by an entity in the executive branch.

TITLES—TECHNICAL AMENDMENTS

SEC. 801. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 101—

(A) in subsection (a), by moving paragraph (7) two ems to the right; and

(B) by moving subsections (b) through (p) two ems to the right;

(2) in section 103, by redesignating subsection (i) as subsection (h); and

(3) in section 109(a)—

(A) in paragraph (1), by striking ‘‘section 112,’’ and inserting ‘‘section 112;’’ and

(B) in paragraph (2), by striking the second period;

(4) in section 301, by striking ‘‘United States’’ and all that follows through ‘‘United States’’, ‘‘person’’, ‘‘weapon of mass destruction’’, and ‘‘State’’;

(5) in section 304(b), by striking ‘‘subsection (a)(3)’’ and inserting ‘‘subsection (a)(2)’’; and

(6) in section 502(a), by striking ‘‘a annual’’ and inserting ‘‘an annual’’.

SEC. 802. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 401 et seq.) is amended—

(1) in paragraph (1) of section 5(a), by striking ‘‘authorized under paragraphs (2) and (3) of section 1002(a), subsections (c)(7) and (d) of sections 1002(a), subsections (a) and (g) of section 1004, and section 303 of the National Security Act of 1947 (50 U.S.C. 403a(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and (405)’’ and inserting ‘‘authorized under section 1004 of the National Security Act of 1947 (50 U.S.C. 403–a);’’ and

(2) in section 17(d)(3)(B)—

(A) in clause (i), by striking ‘‘advise’’ and inserting ‘‘advise’’; and

(B) by amending clause (ii) to read as follows—
“(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—
(I) Deputy Director;
(II) Associate Deputy Director;
(III) Director of the National Clandestine Service;
(IV) Director of Intelligence;
(V) Director of Support; or
(VI) Director of Science and Technology.”

SEC. 803. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE.

Section 528(c) of title 10, United States Code, is amended—
(1) in the heading, by striking “ASSOCIATE DIRECTOR OF MILITARY AFFAIRS” and inserting “ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA”;
(2) in subsection (a), by striking “Central Intelligence Agency for Military Affairs” and inserting “Associate Director of Military Affairs, Central Intelligence Agency, or any successor position”;
(3) in subsection (b), by striking “Director of the National Clandestine Service” and inserting “Director of National Intelligence”.

SEC. 804. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.
The National Security Act of 1947 (50 U.S.C. 401 et seq.)—
(1) in section 3(4)(L), by striking “other” the second place appearing;
(2) in section 102A—
(A) in subsection (c)(3)(A), by striking “annual budget for the Military Intelligence Program and for Tactical Intelligence and Related Activities” and inserting “annual budget for the Military Intelligence Program or any successor program or programs”;
(B) in subsection (d)—
(i) in paragraph (1), by striking “the Joint Military Intelligence Program” and inserting “Military Intelligence Program”;
(ii) in paragraph (3) in the matter preceding paragraph (A) and inserting “paragraph (1)(A)”;
(iii) in paragraph (5)—
(I) in subparagraph (A), by striking “or personnel” in the matter preceding clause (I) and
(II) in subparagraph (B), by striking “or agency involved in the second sentence and inserting “involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)”;
(C) in section 2(1), by striking “section” and inserting “paragraph”;
(D) in subsection (n), by inserting “AND OTHER” after “ACQUISITION”;
(3) in section 3(4), by striking “the National Security Act of 1947 (50 U.S.C. 401 et seq.)”;
(4) in section 194A(g)(1) in the matter preceding paragraph (A), by striking “Director of Operations” and inserting “National Clandestine Service”;
(5) in section 194(c)(2)(B) (50 U.S.C. 4040c(c)(2)(B)) by striking “subsection (b)” and inserting “subsection (i)”;
(6) in section 701(b)(1), by striking “Director of Operations” and inserting “National Clandestine Service”;
(7) in section 705(e)(2)(D)(i) (50 U.S.C. 4325(e)(2)(D)(i)) by striking “responsible” and inserting “responsive”;
(8) in section 1003(h)(2) in the matter preceding subparagraph (A), by striking “subsection (i)(1)(B)” and inserting “subsection (g)(2)(B)”.

SEC. 805. TECHNICAL AMENDMENTS RELATING TO THE MULTICYEAR NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 1403 of the Intelligence Authorization Act for Fiscal Year 1991 (50 U.S.C. 408b) is amended—
(1) in the heading, by striking “FOREIGN”;
(2) by striking “foreign” each place it appears; and
(3) by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;

(b) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:
“General Counsel of the Office of the Director of National Intelligence.”

SEC. 806. TECHNICAL AMENDMENTS TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.
(1) by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and
(2) by inserting “or in section 313 of such title,” after “Central Intelligence Agency”.

SEC. 807. TECHNICAL AMENDMENTS TO SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.
Section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. 403–2) is amended—
(1) in subsection (a), in paragraph (2), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and
(2) in subsection (b)—
(A) in paragraph (1), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;
(B) in paragraph (2)—
(i) in subparagraph (A), by striking “Directors of Central Intelligence” and inserting “Director of National Intelligence” and
(ii) in subparagraph (B), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;
(C) in paragraph (3), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”.

SEC. 810. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992.

(a) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 408–2) is amended by striking “The Director of Central Intelligence” and inserting the following:
“(a) IN GENERAL.—The Director of National Intelligence.”

SEC. 809. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE COMMUNITY DEFINITION.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 408–2) is amended by striking “The Director of National Intelligence” and inserting “Director of National Intelligence”.


SA 4666. Mr. CASEY (for Ms. MURKOWSKI) proposed an amendment to the bill S. 3802, to designate a mountain and icefield in the State of Alaska as the “Mount Stevens” and “Ted Stevens Icefield”, respectively, as follows:
Amend the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Mount Stevens and Ted Stevens Icefield Designation Act”.

SEC. 2. FINDINGS.

Congress finds that—
(1) Theodore “Ted” Fulton Stevens, who began serving in the Senate 9 years after Alaska was admitted to Statehood, represented the people of the State of Alaska
with distinction in the Senate for over 40 years from 1968 to 2009 and played a significant role in the transformation of the State of Alaska from an impoverished territory to a fully self-sufficient state. Stevens, who served in the Senate, was a leader in establishing conservation measures designed to protect the native people of the United States through the use of water and sewer facilities, schools, and other communities in the State of Alaska, which earned him recognition as "Alaskan of the Century." He died in a plane crash on 2009.

(2) Ted Stevens distinguished himself as a transport pilot during World War II in support of the "Flying Tigers" of the United States Army Air Corps, 14th Air Force, earning 2 Distinguished Flying Crosses and other decorations for his skill and bravery.

(3) Ted Stevens, after serving as a United States Senator from Alaska, came to Washington, District of Columbia in 1956 to serve in the Eisenhower Administration in the Department of the Interior, where he was a leading force in securing the legislation that led to the admittance of Alaska as the 49th State on January 3, 1959, and then as Solicitor of the Department of the Interior.

(4) In 1961, Ted Stevens returned to the State of Alaska and, in 1964, was elected to the Alaska House of Representatives, where he was elected as Speaker pro tempore and majority leader until his appointment on December 24, 1968, to the Senate to fill a vacancy caused by the death of Senator E.L. Bartlett.

(5) Ted Stevens, the longest-serving Republican Senator in the history of the Senate, served as President pro tempore of the Senate from 2003 through 2007 and as President pro tempore emeritus from 2008 to 2009, and over the course of his career in the Senate, Ted Stevens was a dedicated Republican leader, Chairman of the Select Committee on Ethics, Chairman of the Committee on Rules and Administration, Chairman of the Committee on Governmental Affairs, Chairman of the Committee on Appropriations, and Chairman of the Committee on Commerce, Science, and Transportation.

(6) Ted Stevens worked tirelessly for the enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which provided for claims totaling approximately $4.5 billion, of which 62% was transferred to the State of Alaska to the Aleut, Eskimo, and Indian peoples and created Native Corporations to secure economic, cultural, and political empowerment of the Native peoples of the State of Alaska.

(7) Ted Stevens was a leader in shaping the conservation policies of the United States, as he helped to establish the spectrum auction policy, negotiated the Telecommunications Act of 1996, authored the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note; Public Law 109–171), and passionately advocated for the connection of rural America to the rest of the country, improving the lives of the people of the United States through the use of telemedicine and distance learning.

(8) Ted Stevens was a conservationist who championed the safe development of the natural resources of the United States, as illustrated by his authorship of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1601 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), which established the 200-mile exclusive economic zone and led to a reduction in the scale of drift-net fishing beyond the exclusive economic zone of any nation.

(9) Ted Stevens was committed to health and fitness in his personal life and in his legislation. This is illustrated by his authorship of the Ted Stevens Amateur and Olympic Sports Act (36 U.S.C. 220501 et seq.), his encouragement of providing equality to female athletes through the enactment of title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and his leadership in improving physical education programs in the Carol M. White Physical Education Program (20 U.S.C. 7261 et seq.).

(10) Ted Stevens unconditionally supported the needs of the Armed Forces of the United States through visits to soldiers, sailors, airman, marines, and Coast Guardsmen in every major military conflict and war zone where United States military personnel have been assigned during his service in the Senate, including Vietnam, Kuwait, Bosnia, Kosovo, Iraq, and Afghanistan, and in his role as Chairman of the Subcommittee on Defense Appropriations for more than 20 years.

(11) Ted Stevens was a devoted husband, father, and grandfather who worked to promote family-friendly policies in the Federal government.

(12) Ted Stevens was well-respected for reaching across the aisle to forge bipartisan alliances and enjoyed many close friendships with colleagues in both political parties and with his staff, who were deeply loyal to him.

(13) The designation of the unnamed highest peak in the State of Alaska, along with an icefield in the Chugach National Forest in that State, in his honor would be a fitting tribute to his honorable life and legacy.

SEC. 3. DESIGNATION OF MOUNT STEVENS.

(a) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the United States Board on Geographic Names (referred to in this Act as the "Board") shall designate the unnamed, 13,885-foot peak in the Alaska Range in Denali National Park and Preserve in the State of Alaska, located at latitude 62.9204960308 and longitude -151.06651024, as Mount Stevens.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the peak referred to in subsection (a) shall be deemed to be a reference to the "Mount Stevens".

SEC. 4. DESIGNATION OF TED STEVENS ICEFIELD.

(a) DESIGNATION.—In this section, the term "icefield" means the icefield in the northern Chugach National Forest in the State of Alaska.

(b) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the United States Board on Geographic Names shall designate the unnamed icefield, as the "Ted Stevens Icefield".

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the icefield shall be deemed to be a reference to the "Ted Stevens Icefield".

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator MAX BAUCUS of Montana, I ask unanimous consent that the Committee on Rules and Administration will meet on Wednesday, September 29, 2010, at 10 a.m., to hear testimony on "Examining the Filibuster: Ideas to Reduce Delay and Encourage Debate in the Senate."

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on (202) 224–3632.

REDUCING OVER-CLASSIFICATION ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 413, H.R. 553.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 553) to require the Secretary of Homeland Security to develop a strategy to promote the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Homeland Security and Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

This Act may be cited as the "Reducing Over-Classification Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States (commonly known as the "9/11 Commission") concluded that there is a need to prevent over-classification of information and other information, and for other purposes.

(2) The 9/11 Commission and others have observed that the over-classification of information interferes with accurate, actionable, and timely information sharing, increases the cost of information security, and needlessly limits public access to information.

(3) Over-classification of information causes confusion and may be shared with whom, and negatively affects the dissemination of information within the United States.
the Federal Government and with State, local, and tribal entities, and the private sector.

(4) Excessive government secrecy stands in the way of a safer and more secure homeland. Over-classification of national security information and the creation and operation of the information sharing environment established under 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(5) Federal departments or agencies authorized to make original classification decisions or that perform derivative classification of information are responsible for developing, implementing, and administering policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities. These programs should ensure that employees know how to properly use classification markings and the policies of the National Archives and Records Administration.

SEC. 3. CLASSIFIED INFORMATION ADVISORY OFFICER.

(a) IN GENERAL.—Subsection (d) of section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended by adding at the end the following:

“(26) To identify and designate, acting through the Under Secretary for Intelligence and Analysis, a Classified Information Advisory Officer for Federal, local, tribal, and private sector entities that have responsibility for the security of critical infrastructure, in matters related to classified materials, as described in section 201.

(b) ESTABLISHMENT AND RESPONSIBILITIES.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

“SEC. 210F. CLASSIFIED INFORMATION ADVISORY OFFICER.

“(a) REQUIREMENT TO ESTABLISH.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall identify and designate within the Department a Classified Information Advisory Officer, as described in this section.

“(b) RESPONSIBILITIES.—The responsibilities of the Classified Information Advisory Officer shall be as follows:

“(1) To develop and disseminate educational materials and to develop and administer training programs to assist State, local, tribal, and private sector entities with responsibilities related to the security of critical infrastructure—

“(A) in developing plans and policies to respond to and to classify information without communicating such information to individuals who lack appropriate security clearances;

“(B) regarding the appropriate procedures for challenging classification designations of information received by personnel of such entities; and

“(C) on the means by which such personnel may apply for security clearances.

“(2) To inform the Under Secretary for Intelligence and Analysis on policies and procedures that could facilitate the sharing of classified information with such personnel, as appropriate.

“(2) CLERICAL AMENDMENT.—The table of contents in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210E the following:

“Sec. 210F. Classified Information Advisory Officer.

SEC. 4. PROMOTION OF APPROPRIATE ACCESS TO INFORMATION.

Subsection (b) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by inserting “(1)” before “Unless”; and

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

“(2) The Director of National Intelligence shall—

“(A) consistent with paragraph (1), have access to all intelligence information, including intelligence reports, operational data, and other associated information, produced by any element of the National Intelligence Community; and

“(B) consistent with the protection of intelligence sources and methods, as determined by the Director,

“(i) ensure maximum access to the intelligence information referenced in subparagraph (A) for an employee of a department, agency, or other entity of the Federal Government or of a State, local, or tribal government who has an appropriate security clearance; and

“(ii) provide a mechanism within the Office of the Director of National Intelligence for the Director to direct access to the information referenced in subparagraph (A) for an employee referred to in clause (i).”.

SEC. 5. INTELLIGENCE INFORMATION SHARING.

(a) DEVELOPMENT OF GUIDELINES FOR INTELLIGENCE PRODUCTS.—Paragraph (1) of section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–1(g)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon and “and”;

(3) by adding at the end the following:

“(G) in accordance with Executive Order No. 12958, as amended by Executive Order No. 13292 (68 Fed. Reg. 64335) (relating to national security information) (or any subsequent corresponding executive order), and parts 2001 and 2004 of title 32, Code of Federal Regulations (or any subsequent corresponding regulation), established—

“(i) guidance to standardize, in appropriate cases, the formats for classified and unclassified intelligence products created by elements of the intelligence community for purposes of promoting the sharing of intelligence products; and

“(ii) policies and procedures requiring the increased use, in appropriate cases, and including portion markings, of the classification of portions of information within one intelligence product.

(b) CREATION OF UNCLASSIFIED INTELLIGENCE PRODUCTS AS APPROPRIATE FOR STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR STAKEHOLDERS.—

Subsection (g) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

“(3)(A) If the head of a Federal department or agency determines that an intelligence product which underlies homeland security information, as defined in section 892(f) of the Homeland Security Information Sharing Act (6 U.S.C. 482(j)), or terrorism information, as defined in section 212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(a)), could likely benefit a State, local, or tribal government, a law enforcement agency, or a private sector entity or agency for the security of critical infrastructure, such head shall share that intelligence product with the Interagency Threat Assessment and Coordination Group established in section 210D of the Homeland Security Act of 2002 (6 U.S.C. 124(a)).

“(B) If the Interagency Threat Assessment and Coordination Group determines that an intelligence product referred to in subparagraph (A), or any other intelligence product that such Group has access to, could likely benefit a State, local, or tribal government, a law enforcement agency, or a private sector entity or agency for the security of critical infrastructure, such Group shall, at a minimum, share such information with the appropriate head of the United States with an officer or employee who is authorized to make original classification decisions or derivative classification decisions.

“(C) Each such recommendation shall consider whether such officer’s or employee’s consistent and proper classification of information in determining whether to award any personnel incentive to the officer or employee.

(c) INSPECTOR GENERAL EVALUATIONS.—

(1) REQUIREMENT FOR EVALUATIONS.—Not less frequently than once each year until December 31, 2014, the Inspector General shall complete an evaluation of this section and all regulations and procedures implementing this section.

(2) CONGRESSIONAL REPORT REQUIREMENT.—

(A) REQUIREMENT.—Each inspector general who is required to carry out an evaluation
SEC. 7. CLASSIFICATION TRAINING PROGRAM.

(a) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ‘‘intelligence community’’ has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(b) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—The Director of National Intelligence, in accordance with Executive Order No. 12958, as amended by Executive Order No. 13292 (68 Fed. Reg. 15315; relating to classification of national security information) (or any subsequent corresponding executive order), shall require annual training for each employee of an element of the intelligence community and appropriate personnel of each contractor to an element of the intelligence community who has original classification authority, performs derivative classification, is responsible for analysis, dissemination, preparation, production, receiving, publishing, or otherwise communicating written classified information that includes training—

(A) to educate the employee and contractor personnel regarding—

(i) the guidance established under subparagraph (G)(i) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by section 3(a)(3), regarding the formatting of finished intelligence products;

(ii) the proper classification of information, including portion markings that indicate the classification of portions of information within one intelligence product; and

(iii) the increased penalties related to the proper classification of intelligence information; and

(B) that is one of the prerequisites, once completed successfully, as evidenced by an appropriate certificate or other record, for—

(i) obtaining original classification authority or derivative classification information; and

(ii) maintaining such authority.

(b) RELATIONSHIP TO OTHER PROGRAMS.—The Director of National Intelligence shall ensure that the training required by paragraph (1) is conducted efficiently and in conjunction with any other security, intelligence, or other training programs required by elements of the intelligence community to reduce the costs and administrative burdens associated with carrying out the training required by paragraph (1).

Mr. DURBIN. I ask unanimous consent that the committee-reported substitute be considered; a Lieberman amendment, which is at the desk, be agreed to; the committee-reported substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time, and the motion to reconsider be laid upon the table without intervening action or debate; and any statements relating to the bill be printed in the Record.

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

The amendment (No. 4661) was agreed to.

(The amendment is printed in today’s Record under “Text of Amendments.”)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 553), as amended, was read the third time and passed.

PLAIN WRITING ACT OF 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 321, H.R. 946.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 946) to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. I ask unanimous consent that an Akaka amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table without intervening action or debate; and any statements related to the bill be printed in the Record.

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

The bill (H.R. 3553) was ordered to a third reading, was read the third time, and passed.

KINGMAN AND HERITAGE ISLANDS ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 582, H.R. 2092.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2092) to amend the National Children’s Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes, do pass with amendments.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2092

Resolved, that the bill from the House of Representatives (H.R. 946) entitled “An Act to enhance citizen access to Government in-
SEC. 2. AMENDMENTS TO NATIONAL CHILDREN’S ISLAND ACT OF 1985.

(a) EXPANSION OF ALLOWABLE USES FOR KINGMAN’S FERRY ISLAND.—The National Children’s Island Act of 1985 (sec. 10–1401 et seq., D.C. Official Code) is amended by adding at the end the following:

SEC. 7. COMPREHENSIVE AND ANACOSTIA WATERFRONT FRAMEWORK PLANS.

“(a) Compliance with Plans.—Notwithstanding any other provision of this Act, it is not a violation of the terms and conditions of this Act for the District of Columbia to use the lands conveyed and the easements granted under this Act in accordance with the Anacostia Waterfront Framework Plan and the Comprehensive Plan.

“(b) Definitions.—For purposes of this section, the following definitions apply:


“(2) Comprehensive Plan.—The term ‘Comprehensive Plan’ means the Comprehensive Plan for the District of Columbia approved by the Council of the District of Columbia on December 28, 2006, as such plan may be amended or superseded from time to time.

“(b) Modification of Reversionary Interests.—Paragraph (1) of section 3(d) of the National Children’s Island Act of 1985 (sec. 10–1402(d)(1), D.C. Official Code) is amended by striking ‘‘The transfer under subsection (a)’’ and all that follows and inserting the following:

‘‘The transfer under subsection (a) and the easements granted under subsection (b) shall revert to the United States upon the expiration of the 90-day period which begins on the date on which the Secretary provides written notice to the District that the Secretary has determined that [the] portion of the District is no longer used for recreational, environmental, or educational purposes in accordance with National Children’s Island, the Anacostia Waterfront Framework Plan, or federal, national, environmental, or educational purpose, except that the reversionary interest of the United States under this paragraph shall expire upon the expiration of a 90-day period which begins on the date on which the United States’s Park Service otherwise determines that the United States shall be used in furtherance of the purposes of the United States Code, and for other purposes.’’

ACCESS TO THE GENERAL SERVICES ADMINISTRATION’S SCHEDULES PROGRAM

Mr. CASEY. Mr. President, I ask the Chair to lay before the Senate a message from the House on S. 2868.

The PRESIDING OFFICER laid before the Senate the following message:

S. 2868
Resolved, That the bill (S. 1510) entitled ‘‘An Act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, do pass with amendments.

Mr. CASEY. I ask unanimous consent that the Senate concur in the House amendments to the Senate bill, with an amendment which is at the desk; that the motion to reconsider and the motion to reconsider be laid upon the table; further that the Senate agree to the title amendment.

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

The amendment (No. 4664) was agreed to.

The amendment is printed in today’s RECORD under ‘‘Text of Amendments.’’

The title amendment was agreed to, as follows: ‘‘An Act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes.’’

SEC. 4. DUTY OF USERS REGARDING USE OF FEDERAL SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Section 502 of title 40, United States Code, as amended by adding at the end the following subsection:

Subsection (d)(1) of section 502 of title 40, United States Code, is amended by inserting ‘‘; and to provide emergency disaster preparedness or response,’’ after ‘‘Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121)’’.

SEC. 5. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ‘‘Budgetary Effects of PAYGO Legislation’’ for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee.

Amend the title so as to read: ‘‘An Act to provide increased access to the Federal supply schedules of the General Services Administration to the American Red Cross, other qualified organizations, and State and local governments.’’

Mr. CASEY. I ask unanimous consent that the Senate concur in the House amendments and the motion to reconsider be laid upon the table, with no intervening action.

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

INTERNSTATE RECOGNITION OF NOTARIZATIONS ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3808, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.
The legislative clerk read as follows:

A bill (H.R. 3808) to require any Federal or State court to recognize any notarization made by a notary public licensed by a State other than the State where the court is located; the notarization occurs in or affects interstate commerce.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. I ask unanimous consent that the bill be read a third time and passed with the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 3808) was ordered to a third reading, was read the third time, and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2701, the Intelligence Authorization Act, received from the House and at the desk.

The PRESIDING OFFICER. The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2701) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I rise today to join the distinguished Chair of the Select Committee on Intelligence in supporting the passage of H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010. With a Senate substitute amendment. This substitute amendment is very similar to S. 3611, which the Senate passed by unanimous consent nearly 2 months ago in an effort to encourage House Speaker NANCY PELOSI to allow consideration of an intelligence authorization bill.

It is often said that the third time is the charm. I certainly hope so. Last summer, we passed our intelligence authorization bill through the Senate in time for the Intelligence Committee to impact fiscal year spending. Unfortunately, our bill got held up in the House for political reasons. So, in August of this year, we tried again. Still, our bill was held up. Now, here we are, on the eve of a new fiscal year, and it looks like we finally have a compromise that will allow Congress to pass an intelligence authorization bill once again.

Why does passing an authorization bill matter at this late date in the fiscal year? This bill does more than just authorize funds for intelligence activities—a vital purpose in and of itself. By providing current congressional guidance and statutory authorities, we can ensure that the intelligence community has the maximum flexibility and capability it needs to function effectively, spend taxpayer funds wisely, and keep our Nation safe.

The intelligence authorization bill before us will allow the intelligence community much-needed flexibility and authority and will ensure appropriate intelligence oversight by this committee.

Two months ago, the Senate confirmed a new Director of National Intelligence. I have often said that in creating the DNI, we gave him an awful lot of responsibility without all the authority he needed. Well, our bill attempts to address that problem by giving the DNI clearer authority and greater flexibility in overseeing the intelligence community. As Director Clapper takes on his new assignment, I expect these provisions will play a big part in helping him lead the intelligence community—and ensuring the rest of the intelligence community recognizes his role, too.

There are also a number of provisions in this bill that I believe are essential for promoting good government and smarter spending. Too often, we have seen in the past expansions of major systems balloon in cost and decrease in performance. That is unacceptable. We are in difficult economic times and the taxpayers are spending substantial sums of their hard-earned money to ensure the intelligence community has the tools it needs to keep us safe. If we do not demand accountability for how these tools are operated or created, we are failing the intelligence community and, ultimately, we are failing the American people.

So, for the past several years, I have sponsored amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive personnel level assessments for the intelligence community. These limitations are often revisited periodically by the executive branch, so this time period should not cause reluctance to cancel the project.

Similarly, the intelligence community must get a handle on its personnel levels. In these tough economic times, it is more important than ever to make sure that the intelligence community is appropriately resourced so it can effectively perform its national security missions.

This is not, however, an open invitation for more contractors. Far too many times, contractors are used by the intelligence community to perform functions better left to government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but the easy, quick fix has been to just hire contractors, not long-term support. And so, our bill includes provisions for annual personnel level assessments for the intelligence community. These assessments will ensure that, before more people are brought in, there are adequate resources to support them and enough work to keep contractors and personnel there.

These are just a few of the provisions in this bill that I believe are important for the success of our intelligence collection efforts and equally important for ensuring sound oversight by the Intelligence Committee.

Now, the substitute amendment does not change any of these provisions. It does make some minor technical changes, and because the fiscal year is limited to the "Gang of Eight" becomes law, some of the authorizing provisions have been removed.

The most significant changes in the substitute reflect the compromise negotiated by Senator SPECTER in the Senate and the administration on the issues of congressional notification and the relationship between the intelligence community and the Government Accountability Office.

This new version to the congressional notification provision revives language similar to the first fiscal year 2010 intelligence authorization bill that passed the Senate by unanimous consent last year. This language provides that the executive branch will be required to provide a "general description" to all of the members of the congressional intelligence committees regarding a covert action finding or congressional notification that has been limited to the "Gang of Eight." This provision is limited to a description that is consistent with the reasons for not yet fully informing all the members of the intelligence committees, so the provision is somewhat weaker than our original language.

Another change to the congressional notification provision is the insertion of a requirement that the decision to limit access to "Gang of Eight" findings and notifications be reviewed within the executive branch every 180 days. If the President determines that such limitations are no longer necessary, then all the members of the congressional intelligence committees will be provided access to such findings and notifications.

These limitations are often revisited periodically by the executive branch, so this time period should not cause difficulty for the administration. We have been in the unique situation that come from bringing the full committees into the loop as soon as possible. Moreover, operational sensitivities can change over time. By requiring a periodic review, this provision ensures that highly sensitive matters will remain protected as long as necessary, while also promoting a full cooperative relationship between the two branches.
The amendment (No. 4665) in the nature of a substitute was agreed to. The amendment is printed in today's Record under "Text of Amendments.") The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 2701), as amended, was read the third time and passed.

ACCREDITATION OF ENGLISH LANGUAGE

Mr. CASEY. I ask unanimous consent the Judiciary Committee be discharged from further consideration S. 1338 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report. The legislative clerk read as follows: A bill (S. 1338) to require the accreditation of English language training programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the Record.

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

The bill, (S. 1338) was read ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1338

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

SECTION 1. ACCREDITATION OF ENGLISH LANGUAGE TRAINING PROGRAMS.

(a) In General. -Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(F)(i), by striking "a language" and inserting "an accredited language"; and

(2) by adding at the end the following:

"(52) The term 'accredited language training program' means a language training program that is accredited by an accrediting agency recognized by the Secretary of Education."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall—

(A) take effect on the date that is 180 days after the date of the enactment of this Act; and

(B) apply with respect to applications for a nonimmigrant visa under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) that are filed on or after the effective date described in subparagraph (A).

(2) TEMPORARY EXCEPTION.—

(A) IN GENERAL.—Notwithstanding section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended by subsection (a), during the 3-year period beginning on the date of the enactment of this Act, an alien seeking to enter the United States to pursue a course of study at a language training program that has been certified by the Secretary of Homeland Security and has not been accredited or denied accreditation by an entity described in section 101(a)(52) of such Act may be granted a nonimmigrant visa under such section.

(B) ADDITIONAL REQUIREMENT.—An alien may not be granted a nonimmigrant visa under subparagraph (A) if the sponsoring institution of the language training program to which the alien seeks to enroll does not—

(1) submit an application for the accreditation of such program to a regional or national accrediting agency recognized by the Secretary of Education within 1 year after the date of the enactment of this Act; and

(2) comply with the applicable accrediting requirements of such agency.

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

The amendment (No. 4666) was agreed to, as follows:

（Purpose: In the nature of a substitute） Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mount Stevens and Ted Stevens Icefield Designation Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Theodore "Ted" Fulton Stevens, who began serving in the Senate 9 years after Alaska was admitted to Statehood, represented the people of the State of Alaska with distinction in the Senate for over 40 years from 1968 to 2009 and played a significant role in the transformation of the State
of Alaska from an impoverished territory to a full-fledged State through the assistance he provided in building energy facilities, hospitals and clinics, roads, docks, airports, waterways, schools, and other community facilities in the State of Alaska, which earned him recognition as “Alaskan of the Century” from the Alaska Legislature in 2000.

(2) Ted Stevens distinguished himself as a transport pilot during World War II in support of the “Flying Tigers” of the United States Army Air Corps, 14th Air Force, flying 2 Distinguished Flying Crosses and other decorations for his skill and bravery;

(3) after serving as a United States Attorney in the territory of Alaska, came to Washington, District of Columbia in 1956 to serve in the Eisenhower Administration in the Department of the Interior, where he was a leading force in securing the legislation that led to the admission of Alas-

ka as the 49th State on January 3, 1959, and then as Solicitor of the Department of the Interior;

(4) in 1961, Ted Stevens returned to the State of Alaska and, in 1964, was elected to the Alaska Legislature, where he was subsequently elected as Speaker pro tempore and majority leader until his ap-

pointment on December 24, 1968, to the Senate to fill the vacancy caused by the death of Senator E.L. Bartlett;

(5) Ted Stevens, the longest-serving Repub-

lican Senator in the history of the Senate, served as Speaker pro tempore of the Sen-

ate from 2003 through 2007 and as President pro tempore emeritus from 2008 to 2009, and over the course of his career in the Senate, Ted Stevens served as assistant Republican leader, Chairman of the Select Committee on Ethics, Chairman of the Committee on Rules and Administration, Chairman of the Com-

mittee on Governmental Affairs, Chairman of the Committee on Appropriations, and Chairman of the Committee on Commerce, Science, and Transportation;

(6) Ted Stevens worked tirelessly for the enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which provided for the conveyance of approximately 44,000,000 acres of land in the State of Alaska to the Aleut, Eskimo, and Indian peo-

ples and created Native Corporations to se-

cure the long-term economic, cultural, and political empowerment of the Native peoples of the State of Alaska;

(7) Ted Stevens was a leader in shaping the communications policies of the United States, as he helped to establish the spec-

trum auction policy, negotiated the Tele-

communications Act of 1996, authored the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note; Public Law 109-171), and passionately advocated for the connection of rural America to the rest of the world and to improve the lives of the people of the United States through the use of telemedicine and distance learning;

(8) a conservationist who championed the safe development of the natural resources of the United States, as illus-

trated by his authorship of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), the Magnuson-Stevens Fishery Con-

servation and Management Act (16 U.S.C. 1801 et seq.), which established the 200-mile exclusive economic zone of the United States in the northern Chugach National Forest in the State of Alaska;

(9) Ted Stevens was committed to health care reform and his legacy of legis-

lative accomplishments, as illustrated by his authorship of the Ted Stevens Amateur and Olympic Sports Act (36 U.S.C. 220501 et seq.), his leadership in pursuing physical education programs in schools through the Carol M. White Physical Education Program (20 U.S.C. 7261 et seq.);

(10) Ted Stevens unconditionally supported the needs of the Armed Forces of the United States through visits to soldiers, sailors, air-

men, marines, and Coast Guardsmen in every major military conflict and war zone where United States military personnel have been assigned during his service in the Senate, in- cluding Vietnam, Kuwait, Bosnia, Kosovo, Iraq, and Afghanistan, and in his role as Chairman and Ranking Member of the Sub-

committee on Defense Appropriations for more than 20 years;

(11) Ted Stevens was a devoted husband, fa-

ther, and grandfather who worked to pro-

mote family-friendly policies in the Federal government;

(12) Ted Stevens was well-respected for re-

aching across the aisle to forge bipartisan alliances and enjoyed many close friendships with colleagues in both political parties and with his staff, who were deeply loyal to him; and

(13) the designation of the unnamed high-

est peak in the State of Alaska, along with an unnamed icefield in the Chugach National Forest in that State, in honor of Ted Stevens would be a fitting tribute to his honorable life and leg-

acy.

SEC. 3. DESIGNATION OF MOUNT STEVENS.

(a) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the United States Board on Geographic Names (referred to in this Act as the “Board”) shall designate the unnamed, 13,895-foot peak in the Alaska Range in Denali National Park and Preserve in the State of Alaska, located at latitude and longitude -151.066510314, as the “Mount Stevens”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the peak re-

ferred to in subsection (a) shall be deemed to be a reference to the “Mount Stevens”.

SEC. 4. DESIGNATION OF TED STEVENS ICEFIELD.

(a) DEFINITION OF ICEFIELD.—In this sec-

tion, the term “icefield” means the icefield in the northern Chugach National Forest in the State of Alaska—

(1) comprising approximately 8,340 square miles, as delineated by the map entitled “Ice Field Name Proposal in Honor of Stevens” dated September 24, 2010, as prepared by the Forest Service and available for inspection at Forest Service headquarters in Wash-

ington, District of Columbia; and

(2) including the Harvard, Yale, Columbia, Nor-

chila, Tazlina, Valdez, and Shoup Glac-

iers.

(b) DESIGNATION.—Not later than 30 days after the date of enactment of this Act, the Board shall designate the icefield as the “Ted Stevens Icefield”.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the icefield shall be deemed to be a reference to the “Ted Stevens Icefield”.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.
"(I) complete rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) or complete unmanned aerial vehicle systems (including cruise missiles, target drones, and reconnaissance drones) capable of delivering at least a 500 kilogram payload to a range of 300 kilometers, and associated production facilities, as defined in the Missile Technology Control Regime Annex Category I, Item 1; (II) individual rocket stages, re-entry vehicles, propulsion systems, solid or liquid propellant motors or engines, guidance systems, thrust vector control systems, and associated production facilities, software, and technology, as defined in the Missile Technology Control Regime Annex Category I, Item 2; (III) defense articles and defense services listed in the Missile Technology Control Regime Annex Category II that are for use in rocket systems, as that term is used in such Annex, including associated production facilities, software, or technology; (IV) toxicological agents, biological agents, and associated equipment, as listed in the United States Munitions List (part 121.1 of chapter I of title 22, Code of Federal Regulations), subcategories (a), (b), (f)(1), (i), (j) as it pertains to (f)(1), (i) as it pertains to (f)(1), (m) as it pertains to all of the subcategories cited in this paragraph; (V) defense articles and defense services specific to the design and testing of nuclear weapons which are controlled under United States Munitions List Category XV(a) and (b), along with associated defense articles in Category XV(d) and technology in Category XV(e); (VI) with regard to the treaty cited in clause (i)(1), defense articles and defense services that the United States controls under the United States Munitions List that are not the United Kingdom, as defined in the United Kingdom Military List or Annex 4 to the United Kingdom Dual Use List, or any successor lists thereto; and (VII) with regard to the treaty cited in clause (i)(2), defense articles for which Australian laws, regulations, or other commitments would prevent Australia from enforcing US control measures specified in such treaty."

SEC. 103. ENFORCEMENT.

(a) CRIMINAL VIOLATIONS.—Section 38(c) of such Act (22 U.S.C. 2778(c)) is amended by inserting "or any rule or regulation issued under either section" and "this section, section 39, a treaty referred to in subsection (j)(1)(C)(i) or (j)(1)(C)(ii) or an implementing arrangement pursuant to such treaty".

(b) ENFORCEMENT POWERS OF PRESIDENT.—Section 38(d) of such Act (22 U.S.C. 2778(d)) is amended by striking "defense services," and "defense services, including defense articles and defense services export or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i) or (j)(1)(C)(ii) or an implementing arrangement pursuant to such treaty".

(c) NOTIFICATION REGARDING EXEMPTIONS FROM LICENSING REQUIREMENTS.—Section 38(a) of such Act (22 U.S.C. 2778(a)) is amended by inserting "of defense services," and "defense services, including defense articles and defense services export or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i) or (j)(1)(C)(ii) or an implementing arrangement pursuant to such treaty".

SEC. 104. CONGRESSIONAL NOTIFICATION.

(a) RETRANSMITTALS AND REEXPORTS.—Section 3(d)(5)(A) of such Act (22 U.S.C. 2753(d)(5)(A)) is amended by striking "or exported pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act" after "approved under section 38 of this Act".

(b) DISCRIMINATION.—Section 5(c) of such Act (22 U.S.C. 2755(c)) is amended by inserting "or has been exempted from the licensing requirements of this Act pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act" after "under this Act".

(c) ANNUAL ESTIMATE OF SALES.—Section 25(a) of such Act (22 U.S.C. 2756(a)) is amended—

(1) in paragraph (1), by inserting "as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act," after "commercial exports under paragraph (1);" and

(2) in paragraph (2), by inserting "as well as exports pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act," after "commercial exports under paragraph (1);"

(d) PRESIDENTIAL CERTIFICATIONS.—

(1) EXPORTS.—Section 36(c) of such Act (22 U.S.C. 2776(c)) is amended by striking at the end the following new paragraph:

"(8) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act to which the provisions of this subsection would apply absent an exemption granted under section 38(j)(1)(C)(i) of this Act, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.".

(2) COMMERCIAL TECHNICAL ASSISTANCE OR MANUFACTURING LICENSING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended by adding at the end the following new paragraph:

"(1) in paragraph (1), by striking "or" and inserting "and" in place thereof; and

(2) in paragraph (2), by inserting "or" after the semicolon; and

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

"(3) exports of defense articles or defense services pursuant to a treaty referenced in section 38(j)(1)(C)(i) of this Act;

SEC. 105. LICENSING ON IMPLEMENTING ARRANGEMENTS.

(a) IN GENERAL.—No amendment to an implementing arrangement concluded pursuant to a treaty referred to in section 38(j)(1)(C)(i) of the Arms Export Control Act, as added by this Act, shall enter into effect for the United States unless the Congress adopts a resolution approving such amendment approving the entry into effect of that amendment for the United States.

(b) COVERED AMENDMENTS.—

(1) IN GENERAL.—The requirements specified in subsection (a) shall apply to any amendment other than an amendment that addresses an administrative or technical matter. The requirements in subsection (a) shall not apply to any amendment that solely addresses an administrative or technical matter.

(2) U.S.-UK IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, signed at Washington February 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(1) coordination with the United States to which the treaty applies;

(2) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

(3) any amendment to section 4, paragraph (4) that modifies the criteria for including items on the list of defense articles exempt from the treaty;

(4) any amendment to section 6, paragraph (7) that modifies licensing and other requirements related to the list of defense articles exempt from the scope of the treaty;

(5) any amendment to section 7, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental United Kingdom entities;

(6) any amendment to section 7, paragraph (9) that modifies the conditions for suspending or removing a United Kingdom entity from the approved community under the treaty;

(7) any amendment to section 7, paragraphs (11) or (12) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

(8) any amendment to section 9, paragraphs (1), (3), (7), (8), (9), (12), or (13) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exception to such requirement; and

(9) any amendment to section 11, paragraph (4) that modifies conditions of entry to the United Kingdom community under the treaty;

(10) any amendment to section 13, paragraph (1) or (2) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

(11) any amendment to section 13, paragraph (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies; and

(12) any amendment to section 13, paragraph (4) that modifies the criteria governing operations, programs, and projects to which the treaty applies.

(3) U.S.-AUSTRALIA IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the Commonwealth of Australia Concerning Defense Trade Cooperation, signed at Washington March 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

(1) coordination with the United States to which the treaty applies;

(2) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations; and

(3) any amendment to section 4, paragraph (4) that modifies the criteria for including items on the list of defense articles exempt from the scope of the treaty;
TITLE II—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 201. SHORT TITLE.
This title may be cited as the “Naval Vessel Transfer Act of 2010.

SEC. 202. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.
(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2322), as follows:
(1) INDIA.—To the Government of India, the OSPREY class minehunting coastal ships KINGFISHER (MHC-56) and CORMORANT (MHC-57).
(2) GREECE.—To the Government of Greece, the OSPREY class minehunting coastal ships OSPREY (MHC-51), BLACKHAWK (MHC-58), and SHRIKE (MHC-62).
(3) CHILE.—To the Government of Chile, the NEWPORT class amphibious tank landing ship TUSCALOOSA (LST-1187).
(4) MOROCCO.—To the Government of Morocco, the NEWPORT class amphibious tank landing ship BOULDER (LST-1190).
(b) TRANSFER BY SALE.—The President is authorized to transfer the OSPREY class minehunting coastal ships ROBIN (MHC-54), the OSPREY class minehunting coastal ships OSPREY (MHC-51), BLACKHAWK (MHC-58), and SHRIKE (MHC-62).
(c) VIETNAM.—To the Government of Vietnam, the OSPREY class minehunting coastal ships OSPREY (MHC-51), BLACKHAWK (MHC-58), and SHRIKE (MHC-62).
(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section (a) shall not be counted against the aggregate value of defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2322).
(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHipyards.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred furnish a reparation or refurbishment of the vessel as is needed, before the vessel joins the naval forces of the recipient, performed at a shipyard located in the United States, including a United States Navy shipyard.
(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 203. CREATION OF NAVY RESERVES STOCKPILE AUTHORITY.
(a) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT.—In the De-
Whereas, according to the 2008 National Study of Employers by the Families and Work Institute, employees in more flexible and supportive workplaces are more effective employers and employees who are able to effectively balance family and work responsibilities are less likely to report making mistakes or experiencing resentment toward employers and coworkers;

Whereas, according to a 2004 report of the Families and Work Institute entitled “Overwork and Undercare: High-ability employees who are able to effectively balance family and work responsibilities are less likely to report making mistakes or experiencing resentment toward employers and coworkers;”

Whereas, according to the “Best Places to Work in the Federal Government” rankings released by the Partnership for Public Service and American University’s Institute for the Study of Public Policy Implementation, work-life balance and a family-friendly culture are among the key drivers of engagement and satisfaction for employees in the Federal workforce;

Whereas, according to a 2009 survey of college students by the Partnership for Public Service and Universum USA entitled “Great Expectations! What Students Want in an Employer and How Federal Agencies Can Deliver” that a healthy work-life balance was an important career goal of 66 percent of the students surveyed;

Whereas, according to a 2009 survey by the Partnership for Public Service entitled “A Golden Opportunity: Recruiting Baby Boomers into Government” that revealed that workers between the ages of 50 and 65 are a strong source of experienced talent for the Federal workforce and that nearly 50 percent of workers in that age group find flexible work schedules “extremely important” to their career;

Whereas finding a good work-life balance is important to workers in multiple generations;

Whereas employees who are able to effectively balance family and work responsibilities tend to feel healthier and more successful in their relationships with their spouses, children, and friends;

Whereas 85 percent of wage and salaried workers in the United States have immediate, day-to-day family responsibilities outside of work;

Whereas, in 2000, research by the Radcliffe Public Policy Center revealed that men in their 20s and women in their 30s, 40s, and 50s identified a work schedule that allows them to spend time with their families as the most important job characteristic for them;

Whereas, according to the 2006 American Community Survey by the United States Census Bureau, 47 percent of wage and salaried workers in the United States are parents with children under the age of 18 who live with them at least half-time;

Whereas job flexibility often allows parents to spend more time with their children’s lives and research demonstrates that parental involvement is associated with children’s higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates;

Whereas the 2000 Urban Working Families study demonstrated that a lack of job flexibility for working mothers negatively affects children’s health in ways that range from children being unable to make needed doctors’ appointments to children receiving inadequate health care, leading to more severe and prolonged illness;

Whereas, from 2001 to the beginning of 2008, 1,700,000 active duty troops served in Iraq and 600,000 service members of the National Guard Reserve (133,000 on more than one tour) were called up to serve in Iraq;

Whereas, because so many of those troops and National Guard and Reserve members have families, there needs to be a focus on policies and programs that can help military families adjust to the realities that come with having a family member in the military;

Whereas research by the Sloan Center for Aging and Work revealed that the majority of workers aged 55 and older attribute their success as an employee by a great or moderate extent to having access to flexibility in their jobs and that the majority of those workers also report that, to a great extent, flexibility options contribute to an overall higher quality of life;

Whereas studies show that ¾ of children and adolescents in the United States are obese or overweight, and healthy lifestyle habits, including healthy eating and physical activity, can lower the risk of becoming obese and developing related diseases;

Whereas studies report that family rituals, such as sitting down to dinner together and sharing activities on weekends and holidays, positively influence children’s health and development and that children who eat dinner with their families every day consume near fruits and vegetables per day than those who never eat dinner with their families or do so only occasionally;

Whereas unpaid family caregivers will likely continue to be the largest source of long-term care services in the United States for the elderly;

Whereas the Department of Health and Human Services anticipates that by 2050 the number of such caregivers will reach 37,000,000, an increase of 85 percent from 2000, as baby boomers reach retirement age in record numbers; and

Whereas the month of October is an appropriate month to designate as “National Work and Family Month.” Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2010 as “National Work and Family Month”;

(2) recognizes the importance of work schedules that allow employees to spend time with their families to job productivity and to healthy families;

(3) urges public officials, employers, employees, and the general public to work together to achieve more balance between work and family; and

(4) calls upon the people of the United States to observe National Work and Family Month with appropriate ceremonies and activities;

NATIONAL SAVE FOR RETIREMENT WEEK

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 649, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 649) supporting the goals and ideals of “National Save for Retirement Week” and raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD. The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 649) was agreed to.

The preamble was agreed to. The resolution, with its preamble, reads as follows:

Whereas people in the United States are living longer, and the cost of retirement is increasing significantly;

Whereas Social Security remains the bedrock of retirement income for the vast majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ¼ of workers or their spouses are currently saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement;

Whereas financial literacy is an important factor in United States workers’ understanding of the true need to save for retirement;

Whereas saving for one’s retirement is a key component to overall financial health and security during retirement years, and the importance of financial literacy in planning one’s retirement must be advocated;

Whereas many workers may not be aware of their options for saving for retirement or may not have a clear sense of importance of saving, and need for, saving for their own retirement;

Whereas many employees have available to them, through their employers, access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of those employees may not be taking advantage of those plans at all or to the full extent allowed by those plans as prescribed by Federal law;

Whereas the need to save for retirement is important, even during economic downturns or market declines, making continued contributions all the more important;

Whereas all workers, including public- and private-sector employees as well as employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to develop personal budgets and financial plans that include retirement savings strategies and to take advantage of the availability of tax-preferred savings vehicles to assist them in saving for retirement; and

Whereas October 17 through October 23, 2010, has been designated as “National Save for Retirement Week”; therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of “National Save for Retirement Week,” including raising public awareness of the various tax-preferred retirement vehicles as important tools for personal savings and retirement financial security;

(2) supports the need to raise public awareness of the availability of a variety of ways to save for retirement which are favored under the Internal Revenue Code of 1986 and utilized by many Americans, but which should be utilized by more;

(3) supports the need to raise public awareness of the importance of saving adequately for retirement and the importance of financial literacy in planning one’s retirement; and

Whereas Social Security remains the bedrock of retirement income for the vast majority of the people of the United States but was never intended by Congress to be the sole source of retirement income for families;
The legislative clerk read as follows:

A resolution (S. Res. 651) recognizing the 20th anniversary of the designation of the month of September of 1991 as “National Rice Month.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the Record.

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

The resolution (S. Res. 651) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 651

Whereas rice is a staple food for more than two billion people around the world and has been one of the most important foods throughout history;

Whereas rice production in the United States dates back to 1685 and is one of the oldest agricultural businesses in the United States;

Whereas rice grown in the United States significantly contributes to the diet and economy of the United States;

Whereas rice is produced in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas;

Whereas rice production, processing, merchandising, and related industries in the United States are vital to the economies of the rural areas of the Sacramento Valley in the State of California, the Gulf Coast region of the States of Louisiana and Texas, and the Mississippi Delta region where more than 3,000,000 acres of rice, on average, are produced annually;

Whereas, in 2009, rice farmers in the United States produced nearly 22,000,000,000 pounds of rice that had a farm gate value of more than $3,000,000,000;

Whereas, in 2009, rice production and subsequent sales generated $17,500,000,000 in total value added to the economy of the United States from rice production, milling, and selected end users and had the employment effect of contributing 127,000 jobs to the labor force;

Whereas eighty-five percent of the rice consumed in the United States is grown by approximately 25,000 American rice farmers, which supports rural labor force;

Whereas rice production and related industries in the United States dates back to 1685 and is one of the oldest agricultural businesses in the United States;

Whereas the United States is one of the largest exporters of rice and produces more than half of the population of the world and

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

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SENEATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meeting schedule.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 28, 2010 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED
SEPTEMBER 28

10 a.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine crimes against America’s homeless, focusing on if the violence is growing.
SD–226

Energy and Natural Resources
Energy Subcommittee
To hold an oversight hearing to examine the Propane Education and Research Council (PERC) and National Oilheat Research Alliance (NORA).
SD–366

Foreign Relations
To hold hearings to examine the Megrahi release, focusing on one year later.
SD–419

Health, Education, Labor, and Pensions
Budget meeting to consider S. 3817, to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1998, and the Abandoned Children Assistance Act of 1998 to reauthorize the Acts, and S. 3196, to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss, and any pending nominations.
SD–430

Homeland Security and Governmental Affairs
Budget meeting to consider S. 3066, to protect Federal employees and visitors, improve the security of Federal facilities and authorize and modernize the Federal Protective Service, H.R. 2142, to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, S. 3794, to amend chapter 5 of title 40, United States Code, to increase organizations whose membership comprises substantially veterans as recipient organizations for the donation of Federal surplus personal property through H.R. 3541 to designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the “Joyce Rogers Post Office Building”, H.R. 5390, to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the “Joyce Rogers Post Office Building”, H.R. 5390, to designate the facility of the United States Postal Service located at 13901 Smith Road in Cleveland, Ohio, as the “David John Donofee Post Office Building”, H.R. 5420, to designate the facility of the United States Postal Service located at 3394 Crenshaw Boulevard in Los Angeles, California, as the “Tom Bradley Post Office Building”, and the nomination of Maria Elizabeth Raffinan, to be an Associate Judge of the Superior Court of the District of Columbia.
SD–342

Rules and Administration
To resume hearings to examine the filibuster, focusing on ideas to reduce delay and encourage debate in the Senate.
SR–301

2 p.m.
Judiciary
To hold hearings to examine the nominations of James E. Graves, Jr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit, Paul Kinue Holmes, III, to be United States District Judge for the Western District of Arkansas, Anthony J. Battaglia, to be United States District Judge for the Southern District of California, Edward J. Davila, to be United States District Judge for the Northern District of California and Diana Saldana, to be United States District Judge for the Southern District of Texas.
SD–226

Commission on Security and Cooperation in Europe
To hold hearings to examine charges against Mikhail Khodorkovsky’s Yukos Oil Company.
SD–342

Foreign Relations
Business meeting to consider S. 2962, to combat international violence against women and girls, S. 3638, to establish an international professional exchange program, an original bill entitled “Naval Vessels Transfer Act of 2010”, S. 1633, to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, S. 2380 to require the President to issue a proclamation recognizing the 53rd anniversary of the Helsinki Final Act, Treaty between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment, and H.R. 4538, to authorize the Secretary of the Interior to expand the boundary of the Park, to conduct a study of potential land acquisitions, S. 3953, to provide for the conveyance of certain Bureau of Land Management land in Mohave County, Arizona, to the Arizona Game and Fish Commission, for use as a public shooting range, S. 3612, to amend the Marsh-Billings-Rockefeller National Historical Park Establishment Act to expand the boundary of

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
the Marsh-Billings-Rockefeller National Historical Park in the State of Vermont, S. 3616, to withdraw certain land in the State of New Mexico, S. 3714, to establish Pinnacles National Park in the State of California as a unit of the National Park System, S. 3778 and H.R. 4773, to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, S. 3820, to authorize the Secretary of the Interior to issue permits for a microhydro project in non-wilderness areas within the boundaries of Denali National Park and Preserve, to acquire land for Denali National Park and Preserve from Doyon Tourism, Inc, S. 3822, to adjust the boundary of the Carson National Forest, New Mexico, and H.R. 1838, to provide for a boundary adjustment and land conveyances involving Roosevelt National Forest, Colorado, to correct the effects of an erroneous land survey that resulted in approximately 7 acres of the Crystal Lakes Subdivision, Ninth Filing, encroaching on National Forest System land.

SD–366
Banking, Housing, and Urban Affairs Security and International Trade and Finance Subcommittee To hold hearings to examine a comparison of international housing finance systems. SD–538

SEPTMBER 30
9:30 a.m.
Banking, Housing, and Urban Affairs Business meeting to consider S. 118, to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and S. 1481, to amend section 311 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities; to be immediately followed by a hearing to examine implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SD–538

10 a.m.
Energy and Natural Resources Energy Subcommittee To hold hearings to examine the role of strategic minerals in clean energy technologies and other applications, including S. 3521, to provide for the reestablishment of a domestic rare earths materials production and supply industry in the United States.

SD–366
Health, Education, Labor, and Pensions To hold hearings to examine the Federal investment in for-profit education, focusing on if students are succeeding.

SD–124
Judiciary Business meeting to consider S. 3675, to amend chapter 11 of title 11, United States Code, to address reorganization of small businesses, S. 2888, to amend section 235 of title 18, United States Code, to exempt qualifying law school students participating in legal clinics from the application of the general conflict of interest rules under such section, S. 3904, to combat online infringement, and the nominations of Robert Neil Chatigny and Susan L. Carney, both of Connecticut, both to be United States Circuit Judge for the Second Circuit, Amy Totenberg, to be United States District Judge for the Northern District of Georgia, James Emanuel Boasberg and Amy Berman Jackson, both to be United States District Judge for the District of Columbia, James E. Shadid and Sue E. Myerscough, both to be United States District Judge for the Central District of Illinois, and Michael C. Ormsby, to be United States Attorney for the Eastern District of Washington, Mark F. Green, to be United States Attorney for the Eastern District of Oklahoma, and Paul Charles Thelen, to be United States Marshal for the District of South Dakota, all of the Department of Justice.

SD–226

10:30 a.m.
Homeland Security and Governmental Affairs State, Local, and Private Sector Preparedness and Integration Subcommittee To hold hearings to examine earthquake preparedness, focusing on what the United States can learn from the 2010 Chilean and Haitian earthquakes.

SD–342

2:30 p.m.
Foreign Relations To hold hearings to examine Latin America in 2010, focusing on opportunities, challenges, and the future of the United States policy in the hemisphere.

SD–419
Homeland Security and Governmental Affairs Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee To hold hearings to examine implementation, improvement, sustainability, focusing on management matters at the Department of Homeland Security.

SD–342
Intelligence To hold closed hearings to examine certain intelligence matters.

SH–219

OCTOBER 6
9:30 a.m.
Veterans’ Affairs To hold an oversight hearing to examine Veterans’ Affairs Information Technology (IT) program, focusing on looking ahead.

SR–418

NOVEMBER 17
10 a.m.
Environment and Public Works To hold hearings to examine Water Resources Development Act of 2010, focusing on legislative and policy proposals to benefit the economy, create jobs, protect public safety and maintain America’s water resources infrastructure.

SD–406
Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S7455–S7564

Measures Introduced: Seven bills and five resolutions were introduced, as follows: S. 3841–3847, and S. Res. 647–651.

Measures Reported:

S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, with an amendment in the nature of a substitute. (S. Rept. No. 111–303)

S. 607, to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, with an amendment in the nature of a substitute. (S. Rept. No. 111–304)

S. 745, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, with an amendment. (S. Rept. No. 111–305)

S. 1117, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont, with an amendment in the nature of a substitute. (S. Rept. No. 111–306)

S. 1320, to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star-qualified manufactured homes, with an amendment in the nature of a substitute. (S. Rept. No. 111–307)

S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California, with an amendment in the nature of a substitute. (S. Rept. No. 111–308)

S. 1651, to modify a land grant patent issued by the Secretary of the Interior, with amendments. (S. Rept. No. 111–309)

S. 1689, to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, with an amendment in the nature of a substitute. (S. Rept. No. 111–310)

S. 1750, to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia. (S. Rept. No. 111–311)

S. 2052, to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors. (S. Rept. No. 111–312)

S. 2798, to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, with an amendment in the nature of a substitute. (S. Rept. No. 111–313)

S. 2812, to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs, with amendments. (S. Rept. No. 111–314)

S. 2900, to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems. (S. Rept. No. 111–315)

S. 3075, to withdraw certain Federal land and interests in that land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws, with an amendment in the nature of a substitute. (S. Rept. No. 111–316)

S. 603, to amend rule 11 of the Federal Rules of Civil Procedure, relating to representation in court and sanctions for violating such rule, with an amendment in the nature of a substitute. (S. Rept. No. 111–317)

S. 3313, to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, with an amendment. (S. Rept. No. 111–318)

S. 3396, to amend the Energy Policy and Conservation Act to establish within the Department of
Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources, with amendments. (S. Rept. No. 111–319)

S. 3404, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, with an amendment in the nature of a substitute. (S. Rept. No. 111–320)

S. 3452, to designate the Valles Caldera National Preserve as a unit of the National Park System, with an amendment in the nature of a substitute. (S. Rept. No. 111–321)

H.R. 685, To require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail. (S. Rept. No. 111–322)

H.R. 1612, To amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the Nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service, with an amendment in the nature of a substitute. (S. Rept. No. 111–323)

H.R. 2430, to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, with an amendment in the nature of a substitute. (S. Rept. No. 111–324)

H.R. 2442, to amend the Reclamation Water and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, with an amendment. (S. Rept. No. 111–325)

H.R. 2522, to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District Recycling Project. (S. Rept. No. 111–326)

H.R. 3388, to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia. (S. Rept. No. 111–327)

H.R. 4252, to direct the Secretary of the Interior to conduct a study of water resources in the Rialto-Colton Basin in the State of California. (S. Rept. No. 111–328)

H.R. 4349, to further allocate and expand the availability of hydroelectric power generated at Hoover Dam. (S. Rept. No. 111–329)

H.R. 4395, to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station. (S. Rept. No. 111–330)

H.R. 5026, To amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States against cybersecurity and other threats and vulnerabilities, with an amendment in the nature of a substitute. (S. Rept. No. 111–331)

S. 3460, to require the Secretary of Energy to provide funds to States for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, with an amendment in the nature of a substitute. (S. Rept. No. 111–332)

S. 3243, to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, with an amendment. Pages S7506–07

Measures Passed:

Reducing Over-Classification Act: Senate passed H.R. 553, to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto:

Durbin (for Lieberman) Amendment No. 4661, in the nature of a substitute. Page S7556

Plain Writing Act: Senate passed H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, after agreeing to the following amendment proposed thereto:

Casey (for Akaka/Voinovich) Amendment No. 4663, to modify the definition of plain writing. Page S7556

Indian Veterans Housing Opportunity Act: Senate passed H.R. 3553, to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family. Page S7556

Kingman and Heritage Islands Act: Senate passed H.R. 2092, to amend the National Children’s Island Act of 1995 to expand allowable uses for
Kingman and Heritage Islands by the District of Columbia, after agreeing to the committee amendments.

**Interstate Recognition of Notarizations Act:** Senate agreed to S. Res. 618, designating October 2010 as "National Work and Family Month".

**National Work and Family Month:** Senate agreed to S. Res. 618, designating October 2010 as "National Work and Family Month".

**Intelligence Authorization Act for Fiscal Year 2010:** Senate passed H.R. 2701, to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, after agreeing to the following amendment proposed thereto:

- **Accreditation of English Language Training Programs:** Committee on the Judiciary was discharged from further consideration of S. 1338, to require the accreditation of English language training programs, and the bill was then passed.

- **Mount Stevens and Ted Stevens Icefield Designation Act:** Committee on Energy and Natural Resources was discharged from further consideration of S. 3802, to designate a mountain and icefield in the State of Alaska as the "Mount Stevens" and "Ted Stevens Icefield", respectively, and the bill was then passed, after agreeing to the following amendment proposed thereto:

- **Defense Trade Cooperation Treaties:** Senate passed S. 3847, to implement certain defense trade cooperation treaties.

- **Combat Methamphetamine Enhancement Act:** Senate passed H.R. 2923, to enhance the ability to combat methamphetamine.

- **National Work and Family Month:** Senate agreed to S. Res. 618, designating October 2010 as "National Work and Family Month".

- **National Save for Retirement Week:** Senate agreed to S. Res. 649, supporting the goals and ideals of "National Save for Retirement Week", including raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy.

- **National Childhood Lead Poisoning Prevention Week:** Senate agreed to S. Res. 650, designating the week of October 24 through October 30, 2010, as "National Childhood Lead Poisoning Prevention Week".

- **20th Anniversary of National Rice Month:** Senate agreed to S. Res. 651, recognizing the 20th anniversary of the designation of the month of September of 1991 as "National Rice Month".

- **Measures Considered:**
  
  - **Creating American Jobs and Ending Offshoring Act—Agreement:** Senate resumed consideration of the motion to proceed to consideration of S. 3816, to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.
  
  During consideration of this measure today, Senate also took the following action:

  By 48 yeas to 25 nays (Vote No. 241), Senate agreed to the motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

  A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 11:10 a.m., on Tuesday, September 28, 2010.

- **House Messages:**

  - **United States Secret Service Uniformed Division Modernization Act:** Senate concurred in the amendment of the House to S. 1510, to transfer statutory entitlements to pay and hours of work authorized by the District of Columbia Code for current members of the United States Secret Service Uniformed Division from the District of Columbia Code to the United States Code, after agreeing to the House amendment to the title, with a further amendment proposed thereto:

  - **Federal Supply Schedules Usage Act:** Senate concurred in the amendments of the House to S. 2868, to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments.

- **Nomination Received:** Senate received the following nomination:

  Paige Eve Alexander, of Georgia, to be an Assistant Administrator of the United States Agency for International Development.

- **Messages from the House:**

- **Enrolled Bills Presented:**

- **Executive Communications:**
House of Representatives

Chamber Action
The House was not in session today. The House is scheduled to meet at 10:30 a.m. on Tuesday, September 28, 2010.

Committee Meetings
No committee meetings were held.

Joint Meetings
No joint committee meetings were held.

COMMITTEE MEETINGS FOR TUESDAY, SEPTEMBER 28, 2010
(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: To hold hearings to examine the Department of Defense efficiency initiatives, 10 a.m., SD–G50.

Committee on the Budget: To hold hearings to examine the outlook for the economy and fiscal policy, 10 a.m., SD–608.


Committee on Environment and Public Works: To hold hearings to examine innovative project finance, 10 a.m., SD–406.

Committee on Finance: To hold hearings to examine if private long-term disability policies provide protection as promised, 10 a.m., SD–406.

Committee on Indian Affairs: To hold an oversight hearing to examine reform in the Indian Health Service’s Aberdeen area, 10 a.m., SD–628.

Committee on the Judiciary: To hold hearings to examine restoring key tools to combat fraud and corruption after the Supreme Court’s Skilling decision, 10 a.m., SD–226.

Select Committee on Intelligence: To hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House


Committee on the Judiciary, Subcommittee on Crime, Terrorism and Homeland Security, hearing on Reining in Overcriminalization: Assessing the Problems, Proposing Solutions, 3 p.m., 2141 Rayburn.

Joint Meetings

Joint Economic Committee: To hold hearings to examine new evidence on the gender pay gap for women and mothers in management, 10 a.m., SD–106.
Next Meeting of the SENATE
10 a.m., Tuesday, September 28

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 11:10 a.m., during which Senators may make tributes to the late Senator Ted Stevens), Senate will continue consideration of the motion to proceed to consideration of S. 3816, Creating American Jobs and Ending Offshoring Act, and vote on the motion to invoke cloture thereon at 11:30 a.m. If cloture is not invoked, a second roll call vote will occur immediately on the motion to invoke cloture on the motion to proceed to consideration of H.R. 3081, Department of State, Foreign Operations, and Related Programs Appropriations Act.

(Late Senator Ted Stevens will be laid to rest at Arlington National Cemetery. Buses will depart the Senate steps at 12:15 p.m.)

Next Meeting of the HOUSE OF REPRESENTATIVES
10:30 a.m., Tuesday, September 28

House Chamber

Program for Tuesday: To be announced.